COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA FOR THE REGULAR COMMISSION MEETING

August 4, 2026

6:00 PM

County Commissioners Chambers

- ***Call to Order and Determination of a Quorum*** - Commission Chair
- ***Pledge of Allegiance and Invocation*** (Please stand for the Pledge of Allegiance and remain standing for the Invocation)
- ***Recognition of Elected Officials***
- ***Recognition of Veterans***
- ***Recognition of Law Enforcement***
- ***Recognition of County Department Heads***

1. ***MOTION TO ADOPT THE PROPOSED AGENDA***

   (Only emergency items shall be added to the agenda. Upon approval of the Commission Chair and County Commission, the item will be added.)

2. ***PUBLIC COMMENT***

   Individuals who wish to address the Board during the public comment period shall register with the Clerk to the Board providing their true name and address on the sign-up sheet. Each individual wishing to address the Board shall only register themselves and will not be permitted to enter the name of any other individual, as the sign-up sheet is a public record available for inspection. The sign-up sheet will be available fifty (50) minutes prior to the start of each meeting. The sign-up sheet will be collected ten (10) minutes prior to the start of each meeting by the Clerk to the Board. Individuals who have not entered their true name and address on the sign-up sheet within the designated time period will not be permitted to address the Board, unless the Chair, in the Chair's sole discretion, permits.

   Citizen speakers will be acknowledged in the order in which they signed up to speak and will address all comments to the Board as a whole and not one individual commissioner. Speakers will address the Board from the speaker's podium at the front of the room and will begin their remarks by stating their name and address. Discussions between Speakers and *members of the audience will not be allowed. Public comment is not intended to require the Board to answer any impromptu questions. Speakers are expected to be civil in their language and presentation and are prohibited from using profanity or making threats of violence or personal attacks against any person. All comments from the speaker shall be issue-oriented and directly related to a subject that the Commissioners have oversight and authority. Each speaker is allotted three (3) minutes to address the Board. A speaker is not permitted to share, reserve or relinquish any remaining time allocated to them to another speaker. Any comments where the primary purpose is to promote a business or candidacy shall not be allowed.*

Any written materials, petitions, photographs and/or other documents may be delivered to the Clerk to the Board. The County is not permitted to accept any external data storage devices (thumb drives, flash drives, memory cards or similar device). In accordance with the Board's adopted Rules of Procedure, Commissioners shall reserve responses, if any, for the Commissioner comment period on the agenda.

A.

3. *CONSENT AGENDA*

Motion to approve the following Consent Agenda items: (Consent items will be adopted with a single motion, second and vote, unless a request for removal from the Consent Agenda is heard from a Commissioner.)

A.	***Tax Administration***	Tax Collector's Settlement
B.	***Tax Administration***	Pending Refunds and Releases
C.	***Tax Administration***	Late Applications for Exemption / Exclusion / Deferral
D.	***Finance Department***	Budget Transfer Summary
E.	***Finance Department***	Budget Amendment (BNA#003)
F.	***Sheriff's Office***	Budget Amendment (BNA#004)
G.	***Emergency Management***	Budget Amendment (BNA#005)
H.	***Sheriff's Office***	Budget Amendment (BNA#006)
I.	***Cooperative Extension***	Budget Amendment (BNA#007)
J.	***Finance Department***	Budget Amendment (BNA#008)

K.	***Finance Department***	Treasury Management Resolution and Certification
L.	***Sheriff's Office***	Firearms Transfer Funds Resolution
M.	***Legal Department***	Spangler Branch Library Addition Project
N.	***Planning Department***	Request to Set a Public Hearing on Tuesday, September 15, 2026, for Planning Department Case 26-19, a Request to Re-Zone 1513 and 1519 S. Battleground Avenue from Residential (R) to Light Industrial (LI)

PUBLIC HEARINGS

Individuals who wish to address the Board during the public hearing shall register with the Clerk to the Board providing their true name and address on the sign-up sheet. Each individual wishing to address the Board shall only register themselves and will not be permitted to enter the name of any other individual, as the sign-up sheet is a public record available for inspection. The sign-up sheet will be available fifty (50) minutes prior to the start of each meeting. The sign-up sheet will be collected ten (10) minutes prior to the start of each meeting by the Clerk to the Board. Individuals who have not entered their true name and address on the sign-up sheet within the designated time period will not be permitted to address the Board, unless the Chair, in the Chair's sole discretion, permits.

Citizen speakers will be acknowledged in the order in which they signed up to speak and will address all comments to the Board as a whole and not one individual Commissioner. Speakers will address the Board from the speaker's podium at the front of the room and will begin their remarks by stating their true name and address. Discussions between speakers and members of the audience will not be allowed. A public hearing is not intended to require the Board to answer any impromptu questions. Speakers are expected to be civil in their language and presentation.

All comments from the speaker shall be directly related to the subject of the public hearing. Each speaker is allotted five (5) minutes to address the Board. A speaker is not permitted to share, reserve or relinquish any remaining time allocated to them to another speaker. Any written materials, petitions, photographs and/or other documents may be delivered to the Clerk to the Board. The County is not permitted to accept any external data storage devices (thumb drives, flash drives, memory cards or similar device). In accordance with the Board's adopted Rules of Procedure, Commissioners shall reserve responses, if any, for the Commissioner comment period on the agenda.

4. Planning Department Case 25-19; Town of Fallston Future Land Use Plan Adoption

Chris Martin, Planning Director

5. Planning Department Case 26-09; Add Section 12-164, Development Standards for Data Centers, to the Unified Development Ordinance (UDO)

Chris Martin, Planning Director

6. Planning Department Case 26-15; Request to Rezone Parcels 21945, 21944, and 21929 from General Business (GB) to Residential (R)

Chris Martin, Planning Director

7. Planning Department Case 26-16; Request to Rezone Parcel 57492 from Heavy Industrial (HI) to Light Industrial (LI)

Chris Martin, Planning Director

8. Planning Department Case 26-18; Request to Rezone Parcels 31548, 31976, and 63209 from Residential (R) to Light Industrial (LI)

Chris Martin, Planning Director

REGULAR AGENDA

9. Justice Center Project Update

David Cotton, County Manager

ADJOURN

The next regular meeting of the Cleveland County Board of Commissioners will be held on Tuesday, September 15, 2026, at 6:00 pm in the Commissioners' Chambers.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Public Comment

Department:

Agenda Title:

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description

No Attachments Available

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Tax Collector's Settlement

Department:	Tax Administration
Agenda Title:	Tax Collector's Settlement
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
Tax_Collectors_Settlement.pdf	Settlement Letter
Order_to_Collect_Auditors_Schedule.pdf	Order to Collect Auditors Schedule

Cleveland County
NORTH CAROLINA

Monday, July 20, 2026

Cleveland County Board of Commissioners
311 East Marion Street
Shelby, North Carolina 28150-4611

RE: Tax Collector's Settlement: FY 2025-2026

Dear Cleveland County Board of Commissioners:

Pursuant to the provisions of N.C.G.S. 105-373, I hereby attach the Settlement for Current-Year Taxes and Delinquent Taxes. The total levy for all of Cleveland County in FY 2025-2026 was $115,207,474.32. County General levy was $56,891,642.51. A list of people owning 2354 parcels of real property, whose taxes for this fiscal year remain unpaid, for the entire county ($1,784,122.98) and county general only ($877,712.58) as well as a list of persons with unpaid personal property for the entire county ($308,797.53) and county general only ($306,203.15) is available for your review. Of the total amount due there is a sum of $27,411.93 real and personal property listed in bankruptcy that cannot be force collected at this time.

I report that as of the close of FY 2025-2026, the Cleveland County Tax Office collected 98.46% of County General real property tax and 98.00% of all Cleveland County real property annual tax bills. This is a slight decrease from last year's percentages.

I hereby state that I have made diligent efforts I was afforded to collect taxes due from everyone in such a manner that was necessary and reasonable in accordance with the charge given me by this board August 5, 2025 such as wage garnishment, bank attachment, NC Debt Setoff, and foreclosure.

Respectfully submitted,

Denise Jones

Denise Jones, Cleveland County Tax Collector

Sworn to and subscribed before me this 20 day of July, 2026

Michelle W. Humphries

Notary Public

My commission expires on 4-30-28.

MICHELLE W. HUMPHRIES NOTARY PUBLIC CLEVELAND COUNTY

Tax Collector
P.O. Box 760 • SHELBY, NC 28151-0760
PHONE 704.484.4845

			CLEVELAND COUNTY, NORTH CAROLINA								
		Settlement for Current-Year Taxes and Delinquent Taxes									
							Column B	Uncollected balance from last year's report			
REAL AND PERSONAL PROPERTY											
		SCHEDULE OF AD VALOREM TAXES RECEIVABLE					Column C	Work backwards from Uncollected to get Original Levy			
		YEAR ENDED JUNE 30, 2026						for current year.			
						Match	Match	Enter Supplements, Collections, & Abatements			
	UNCOLLECTED				**ABATEMENTS**	**UNCOLLECTED**	**CL2226**	Check the uncollected balance on CL2226 for current year			
FISCAL	**BALANCE**	**ORIGINAL**	**DISCOVERIES**		**AND OTHER**	**BALANCE**	**Uncollected**	Take that uncollected amount and add the absolute value of the			
YEAR	**06/30/25**	**LEVY**	**SUPPLEMENTS**	**COLLECTIONS**	**CREDITS**	**06/30/25**	**year end total**	uncollected balance on the spreadsheet.			
2025		$107,476,739.18	$7,866,134.09	$113,423,351.34	$135,398.95	$1,784,122.98	$1,784,122.98	This will be your original levy. (not able to figure due to trash, interest, fees etc)			
2024	$1,498,439.10		$6,158.81	$946,134.98	$16,772.59	$541,690.34	$541,690.43				
2023	$998,132.32		$608.52	$422,414.94	$7,971.10	$568,354.80	$568,353.11	Uncollected	Check each year from CL2226		
2022	$690,387.30		$608.52	$172,538.89	$2,027.81	$516,429.12	$516,429.12	Abatements	Penny's Abatement & Supplement report		
2021	$215,074.20		$606.18	$68,408.85	$1,618.60	$145,652.93	$145,652.93	Collections	Distribution Combined	cell A-61	
2020	$196,366.06		$0.00	$32,828.85	$382.71	$163,154.50	$163,154.50	Supplements	Penny's Abatement & Supplement report		
2019	$422,528.01		$0.00	$39,620.94	$70.15	$382,836.92	$382,836.92				
2018	$193,469.56		$0.00	$21,094.40	$70.15	$172,305.01	$172,305.01				
2017	$106,803.46		$0.00	$22,079.78	$45.52	$84,678.16	$84,678.16				
2016	$72,536.77		$0.00	$13,267.19	$1,075.25	$58,194.33	$58,194.33	Uncollected	Abatements	Collections	Supplements
2015	$79,392.71		$1,308.96	$623.54	$77,460.21	$2,617.92	$0.00				
2014						$0.00		$1,784,122.98	$135,398.95	$113,423,351.34	$7,866,134.09
Total	$4,473,129.49	$107,476,739.18	$7,875,425.08	$115,162,363.70	$242,893.04	$4,420,037.01	$4,417,417.49	Levy =	$107,476,739.18		
			Discounts	-$270,533.87							
			Interest & Penalties	$566,182.86							
			Costs	$120,041.35							
			Total	$115,578,054.04							
			2026 Deferred	$46,668.41							
	2025 UNCOLLECTABLE BANKRUPTCY FILINGS			$27,411.93							

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Pending Refunds and Releases

Department:	Tax Administration
Agenda Title:	Pending Refunds and Releases
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
Pending_Refunds_and_Releases_08-04-26.pdf	Pending Refunds and Releases

STAFF REPORT

To: County Commissioners — Meeting Date: August 4, 2026

Via: David Cotton, County Manager

From: Sherry Lavender, Tax Administrator

Subject: Request for release

Summary Statement: Approve or Deny Release or Refund Request

Review: Per N.C.G.S. 105-312(k) any taxpayer asserting a valid defense shall request a compromise of a discovery bill including penalties.

N.C.G.S. 105-312(k) Power to Compromise. - After a tax receipt computed and prepared as required by subsections (g) and (h) of this section has been delivered and charged to the tax collector as prescribed in subsection (j), above, the board of county commissioners, upon the petition of the taxpayer, may compromise, settle, or adjust the county's claim for taxes arising therefrom. The board of commissioners may, by resolution, delegate the authority granted by this subsection to the board of equalization and review, including any board created by resolution pursuant to G.S. 105-322(a) and any special board established by local act.

This matter is submitted for consideration as a Consent Agenda item at the County Commissioner's Board meeting scheduled for August 4, 2026.

Possible Fiscal Impact: Estimated $ 24,517.56

Recommendation: Approve or deny release/refund requests. Taxpayers have sent written request for a release of penalty associated with a Discovery Notice completed during an audit review.

Attachment:
(1) Pending release form
(2) Request Letter from Taxpayer

PENDING REFUNDS / RELEASES										
August 4, 2026										
The following request(s) have been reviewed by the County Assessor. They are hereby submitted for approval/denial by the Cleveland County Board of Commissioners or the Board of E&R per G.S. 105-312(k). Supporting documentation is on file in the County Assessor's Office.										
NAME	**TAX YEAR**	**ACCOUNT**	**REASON**	**ORIGINAL ASSESSED VALUE**	**ORIGINAL TAX**	**REQUESTED RELEASE/REFUND VALUE**	**DISTRICT**	**EFF TAX RATE**	**RELEASE**	**REFUND**
Jump Systems LLC	2025	1378358	Request discovery penalty waiver	$ 23,919,177	$245,171.56	10% Penalty	4	1.0250	$24,517.56	
TOTAL					**$245,171.56**				**$24,517.56**	**$0.00**

July 3, 2026

Assessor's Office
P.O. Box 370
Shelby, NC 28151-0370

Re: Jump Systems LLC
EIN: 36-4707830
Account ID: 1378358
Tax Year: 2025

Dear Sir or Madam,

Jump Systems LLC ("Taxpayer") is writing in response to the attached Notice of Discovery regarding the failure to file the 2025 Business Personal Property Listing in Cleveland County, North Carolina, for the property located at 131 Riverside Court, Kings Mountain, NC 28086.

This location qualifies as a data center under North Carolina General Statute Section 105-164.13(201), rendering the property taxes at this location eligible for a full rebate. As this was the Taxpayer's first time filing the 2025 Business Personal Property Listing for this location, and given the uncertainty surrounding the rebate process, the Taxpayer proactively contacted multiple representatives within the county to seek clarification on both the rebate procedures and whether a filing was required given the full rebate eligibility. Unfortunately, the Taxpayer did not receive the guidance necessary to proceed with confidence, which ultimately resulted in the return not being filed.

Given the Taxpayer's good-faith efforts to seek clarification and the first-time nature of this filing, the Taxpayer respectfully requests a one-time abatement of the penalties assessed on the Notice of Discovery, totaling $24,517.16.

Please find the Taxpayer's completed 2025 Business Personal Property Listing enclosed for your review. Should you require any additional information or have questions, please do not hesitate to contact me directly at the number listed below.

Sincerely,

Michael Rebizant
Senior Tax Manager
mrebizant@jumptrading.com
(312)-205-8766

Sherry Lavender

From:	Michael Rebizant <mrebizant@jumptrading.com>
Sent:	Tuesday, July 21, 2026 2:51 PM
To:	Sherry Lavender
Cc:	Matthew Ohzourk; Julia Bolton
Subject:	RE: Letter dated 7/3/2026
Attachments:	T5 Charlotte Incentives 20.03.23.pdf

[External Sender]

Dear Ms. Sherry,

Thank you for reaching out. Could you please clarify whether an appearance before the Board of County Commissioners is required, or whether this matter will be handled through an internal review?

Additionally, please disregard any prior references to sales and use tax, as this matter pertains exclusively to the Business Personal Property tax discovery.

The failure to file a Business Personal Property return was entirely unintentional and stemmed from a good-faith misinterpretation of the property's tax status. Specifically, an existing ad valorem incentive agreement among T5, its tenants, Cleveland County, and the City of Kings Mountain led us to reasonably believe that the property was exempt from the annual filing requirement. I have attached the incentive agreement for support.

In an effort to ensure compliance, our team made multiple attempts to contact the county to confirm our understanding and obtain clarification on the applicable process. Regrettably, we did not receive guidance indicating that a filing was required. We have since gained a clear understanding of the annual filing obligation and have implemented internal procedures to ensure all future filings are completed accurately and on time.

Upon receipt of the discovery notice, our team immediately recognized the outstanding filing obligation and acted promptly to prepare and submit the return. In light of our demonstrated good-faith efforts to seek clarification, our voluntary submission of a return reflecting a higher tax liability than the notice alone would have required, and the first-time nature of this filing, we respectfully request your favorable consideration in granting a full waiver of the assessed penalties.

Thank you for your time and consideration.

Thanks!

Michael Rebizant

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Late Applications for Exemption / Exclusion / Deferral

Department:	Tax Administration
Agenda Title:	Late Applications for Exemption / Exclusion / Deferral
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
2026_Late_Applications_080426.pdf	Late Applications

STAFF REPORT

To:	County Commissioners	Meeting Date: August 4, 2026
Via:	David Cotton, County Manager	
From:	Sherry Lavender, Tax Administrator	
Subject:	Late Applications for Exemption / Exclusion / Deferral	

Summary Statement: Approve or deny late applications.

Review: Per N.C.G.S. 105-282.1 every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it.

Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the statutory deadlines may be approved by the NC Department of Revenue, the Board of Equalization and Review, the Board of County Commissioners, or the governing body of a municipality, as appropriate.

This matter is submitted for consideration as a Consent Agenda item at the County Commissioner's Board meeting scheduled for August 4, 2026.

Proposed Fiscal Impact: Estimated $ 3,025.46

Recommendation: Approve applications. Properties qualify for the exemption, exclusion, or deferment requested other than being untimely filed with the Assessor's Office.

Attachment:
(1) Roster of Applicants

Late Applications for Exemption, Exclusion or Deferment						
Tuesday, August 4, 2026						
					Estimated	Estimated
					Value to be	Fiscal Impact
Owner Name	**Tax Year**	**Parcel/Account**	**Physical Location**	**Type**	**Exempt/Deferred**	**(County Tax Only)**
Durwin Briscoe	2026	14557	109 Quail Hollow Dr	Disabled Veteran	$ 45,000	$ 182.25
Jonathan Lawrence	2026	67081	410 Luna Ln	Disabled Veteran	$ 45,000	$ 182.25
Trini C Lockhart	2026	59400	148 Autumn Woods Dr	Disabled Veteran	$ 45,000	$ 182.25
Robert Taylor	2026	1529	450 Lemmons Rd	Disabled Veteran	$ 45,000	$ 182.25
Frank Williams	2026	14024	109 Branchwood Cir	Disabled Veteran	$ 45,000	$ 182.25
Gloria Bobbit	2026	44772	342 Mercury Dr	Elderly/Disabled	$ 57,224	$ 231.76
Robert Byers	2026	11705	111 School St	Elderly/Disabled	$ 35,437	$ 143.52
Katrisa Cannon	2026	M45515TN	100-6 Kenwall Village Drive	Elderly/Disabled	$ 25,000	$ 101.25
Catherine Gold	2026	58373	515 Mooresboro Rd	Elderly/Disabled	$ 162,484	$ 658.06
Patricia Herndon	2026	12025	1710 Shelby Rd	Elderly/Disabled	$ 61,266	$ 248.13
Wanda Hubbard	2026	53136	216-1 Pete Mauney Rd	Elderly/Disabled	$ 52,235	$ 211.55
Bernice Petty	2026	27369	341 Preyer St	Elderly/Disabled	$ 25,426	$ 102.98
Sarah Spikes	2026	32337	2027 Kinston Rd	Elderly/Disabled	$ 54,849	$ 222.14
Glenda Stinchcomb	2026	38596	120 Howser Dr	Elderly/Disabled	$ 48,107	$ 194.83
						$ -
Staff Recommendation	Approve applications. All properties qualify for the exclusion or exemption requested other than					
	the late submission of the application.					
				Total	**$ 747,028**	**$ 3,025.46**

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Budget Transfer Summary

Department:	Finance Department
Agenda Title:	Budget Transfer Summary
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
Budget_Transfer_Summary_07.24.2026.pdf	Budget Transfer Summary

County of Cleveland, North Carolina
Manager's Budget Summary
Presented at the August 4th, 2026 Board Meeting
Time Period Covered : 07/03/2026 to 07/24/2026
For Fiscal Year Ending June 30, 2027

BUD #	DATE SUBMITTED BY DEPT	Fund #	DEPT #	DEPT NAME	EXPLANATION	Account Description	BUDGET AMOUNT
27000	7/7/2026	028	452	Volunteer Fire Depts	Btd Correcting Amount In Vfd For Allotement	Contracted Services	$ (1,860.00)
27000	7/7/2026	028	452	Volunteer Fire Depts	Btd Correcting Amount In Vfd For Allotement	Operational Allot +%	$ 65,970.00
27000	7/7/2026	028	452	Volunteer Fire Depts	Btd Correcting Amount In Vfd For Allotement	Reserve Funds	$ (64,110.00)
27001	7/10/2026	010	998	Contingency	Tfr Duplication Of Budget Items Over To Contingency Line (Km/Shelby Farmers Markets)	Emerg & Contingency	$ 32,000.00
27001	7/10/2026	010	495	Cooperative Extension	Tfr Duplication Of Budget Items Over To Contingency Line (Km/Shelby Farmers Markets)	Professional Serv	$ (32,000.00)
27002	7/23/2026	010	449	Electronic Maintenance	Transfer Funds To Cover Original Budget Shortfall Due To Only One Month Being Budgeted For Polkville Tower Rental Vs 12 Months	Rent Of Building/Space	$ 7,625.00
27002	7/23/2026	010	998	Contingency	Transfer Funds To Cover Original Budget Shortfall Due To Only One Month Being Budgeted For Polkville Tower Rental Vs 12 Months	Emerg & Contingency	$ (7,625.00)
27003	7/21/2026	028	452	Volunteer Fire Depts	Btd Temporary Transfer To Cover Fires Workers Comp Premiums	Insurance /Bonding	$ 47,025.00
27003	7/21/2026	028	452	Volunteer Fire Depts	Btd Temporary Transfer To Cover Fires Workers Comp Premiums	Contracted Services	$ (47,025.00)
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Coop Nutrition Class Exp	$ 274.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Home Horticulture	$ 537.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Efnep-Hlthy Together Grant	$ 587.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Horticulture Activities	$ 1,947.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Master Gardeners	$ 1,987.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	4H Shooting Sports	$ 3,305.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	4H Program Enhancements	$ 8,360.00
2027002	7/24/2026	010	495	Cooperative Extension	Co 27001 Coop Ext Restricted Donation Co	Fund Balance Appropriated	$ 16,997.00

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Finance Department: Budget Amendment (BNA#003)

Department:	Finance Department
Agenda Title:	Budget Amendment (BNA#003)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_003_VFD_for_Insurance_Employee_workers_comp.pdf	BNA 003

Cleveland County
NORTH CAROLINA

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 003	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/06/2026	**Requester Email:**ian.bishop@clevelandcountync.gov	**Requesting Department: Finance**

Account #	Account Description	Increase	Decrease
"028-452-5-430-00"	INSURANCE /BONDING	$97,025.00	
"028-452-4-991-00"	FUND BALANCE APPROPRIATED	$97,025.00	

Reason for Request: Budget Insurance workers comp for VFD employee

Total Amount Revenue Increase and Expense Increase: $97,025.00

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
	Ian Bishop	Tonya Brittain-Interim 07/09/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

MAXWELL B. HAMRICK INSURANCE AGENCY, INC.
TEL: (704) 434-7867
FAX (704) 434-6943
P. O. BOX 816
BOILING SPRINGS, NC 28017

Volunteer Fire Departments and Fire & Rescue

Work comp premiums

Bethlehem VFD	$ 7,175.00
Boiling Springs Fire & Rescue	$13,415.00
Casar VFD	$ 6,645.00
Cleveland County Haz Mat	$ 1,495.00
Cleveland VFD	$ 8,915.00
Fallston Community VFD	$ 8,705.00
Grover Rural VFD	$ 6,065.00
Oak Grove VFD	$ 5,930.00
Polkville VFD	$ 8,005.00
Number Seven VFD	$ 7,070.00
Number Three VFD	$ 6,865.00
Shanghai VFD	$ 7,220.00
Waco Community VFD	$ 9,520.00
Total	**$97,025.00**

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Sheriff's Office: Budget Amendment (BNA#004)

Department:	Sheriff's Office
Agenda Title:	Budget Amendment (BNA#004)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_004_JOPS_(Joint_Operations_Planning_System)_funding_grant_(1).pdf	BNA 004

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 004	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/09/2026	**Requester Email:** tonya.brittain@clevelandcountync.gov	**Requesting Department: Law enforecement Grant**

Account #	Account Description	Increase	Decrease
"010-438-4-310-00"	FEDERAL GOVT GRANTS	$10,000.00	
"010-438-5-700-00"	GRANTS	$10,000.00	

Reason for Request: Budget JOPS funding from Dept of Treasury (Secret Service) to cover subscription and needed supplies

Total Amount Revenue Increase and Expense Increase: $10,000.00

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
× Tonya Brittain for Sheriff Norman 07/09/2026	Ian Bishop 07/21/2026	× Tonya Brittain-Interim Asst Finance Dir 07/21/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

BUDGET NEW - ORDINANCE AMENDMENT

BNA # ____________

SUBMITTED TO BOARD OF COUNTY COMMISSIONERS
FOR CONSIDERATION AT MEETING TO BE HELD ON: August 4, 2026

SIGNATURES:
Tonya Brittain - Interim Assistant
Finance Director

[signature]
Department Manager

FROM: BUDGET OFFICER
THRU: FINANCE OFFICE
FOR DEPT: SHERIFF'S OFFICE
DATE: 7/8/2026

Account Number	Project Code	Department	Account Name	Increase	Decrease
010.438.4.310.00		Law Enf Grants	Federal Govt Grants	$ 10,000	
010.438.5.700.00		Law Enf Grants	Grants	$ 10,000	

Explanation of Revisions: Budget JOPS Funding from the Department of Treasury (Secret Service)

THE ABOVE AMENDMENT HAS BEEN APPROVED AND RECORDED IN THE MINUTES OF THE COUNTY COMMISSIONERS' MEETING ON ____________
(Date)

____
Phyllis Nowlen, Clerk to the Board

RETURN TO FINANCE OFFICE and Forward copy via email to Tonya.Brittain@clevelandcountync.gov

cc: Personnel
cc: Purchasing

Batch # ____________
Date: ____________
By: ____________

Lisa Poteat

From: Lisa Poteat
Sent: Wednesday, July 8, 2026 4:40 PM
To: Lisa Poteat
Subject: FW: JOPS Funding

From: MATTHEW EDDINS (CLT) <matt.eddins@usss.dhs.gov>
Sent: Tuesday, December 9, 2025 2:45 PM
To: Christine Weaver <christine.weaver@clevelandcountync.gov>
Cc: BRIAN MYERS (CLT) <BRIAN.MYERS@usss.dhs.gov>
Subject: JOPS Funding

[External Sender]

Chrissy,

TEOAF has approved **$10,000** in JOPS funding for the Cleveland County Sheriff's Office for FY26 (October 01, 2025 thru September 30, 2026). You have 100% of your funding available at this time. Towards the end of the fiscal year, there may be some additional funds available, but I can't guarantee anything and those funds are usually last minute...not to mention the typical "red tape" issues that always accompany the re-obligation of funds.

Some reminders below:

Once you have made a purchase or incurred overtime, please email the Department of the Treasury Request for Reimbursement of Joint Operations Expenses with all supporting documentation to me, including a thorough justification of all the expenses. Reimbursement claims may only be made on a monthly basis (i.e. all purchases/overtime from a month on one form). As a reminder, if you are submitting a Reimbursement Request for overtime, you also need to submit the Secret Service Standard Form 1852 (Time and Attendance) form.

The quarterly guideline dates for FY26 are outlined below. TEOAF monitors each department's spending on a quarterly basis. It is very important to achieve these quarterly spending goals or funding could be reduced. We want to avoid getting to August / September and you having most of your money still needing to be spent. If there are changes to these dates I will let you know.

- 04/01/26-----2nd (50%) of funds expensed
- 07/01/26-----3rd (75%) of funds expensed
- 09/30/26-----4th (100%) of funds expensed

Lastly, be advised TEAOF has been cracking down on certain "allowable expenses", to include expenses such as conferences/trainings and even some computer equipment because they are not directly related to JOPS investigations and are viewed more as a "personal benefit". With that being said, please keep the above in mind when it comes to your submitted expenses and make sure you have good justifications for each item purchased and how it will benefit the JOPS program overall by asset forfeiture.

Any questions please call or email.

Thx, Matt

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Emergency Management: Budget Amendment (BNA#005)

Department:	Emergency Management
Agenda Title:	Budget Amendment (BNA#005)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_005_Budgeting_Starklink_Project.pdf	BNA 005

Cleveland County
NORTH CAROLINA

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 005	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/20/2026	**Requester Email:**tonya.brittain@clevelandcountync.gov	**Requesting Department: Haz-Mat Control**

Account #	Account Description	Increase	Decrease
010-453-4-310-00	FEDERAL GOVT GRANTS	$15,000.00	
010-453-5-700-00	GRANTS	$15,000.00	

Reason for Request: Budget grant award for seven Starlink Communication Devices. Agreement was signed back in Nov 2024 but Finance Director at time failed to send on for BNA and time period to spend funds is close. Project Code: 97067-STARLINK

Total Amount Revenue Increase and Expense Increase: $15,000.00
Needs to go to the August Commissioner meeting. Project Code: 97067-STARLINK

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
Josh Queen 07/20/2026	Ian Bishop 07/21/2026	Tonya Brittain-Interim Asst Finance Dir 07/21/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

NC Department of Public Safety
EMERGENCY MANAGEMENT

Roy Cooper, Governor

Eddie M. Buffaloe Jr., Secretary
William C. Ray, Director

Homeland Security Grant Program (HSGP)

Fiscal Year 2024

AL#: 97.067
Grant #: EMW-2023-SS-00034

Memorandum of Agreement (MOA)

between

RECIPIENT	**SUBRECIPIENT**
State of North Carolina	Cleveland County
Department of Public Safety	1333 Falston Rd.
Emergency Management (NCEM)	Shelby, NC 28150-
1636 Gold Star Dr	Tax ID/EIN #: 56-6000288A
Raleigh, NC 27607	UEID #: MXEZRW9DKR86

MOA #: 24HSGP024

Award amount: $15,000.00
Period of performance (POP): September 1, 2024 to February 28, 2027

Cost center 102642-0-0-3024-19GH000108

1. **Purpose**
The purpose of this Memorandum of Agreement (MOA) is to establish responsibilities and procedures to implement the terms and conditions of the US Department of Homeland Security (DHS) Homeland Security Grant Program (HSGP). More information about HSGP is available at: https://www.fema.gov/grants/preparedness/homeland-security. This MOA is to set forth terms by which RECIPIENT shall provide HSGP funding to SUBRECIPIENT to fund projects related to Homeland Security Planning, Operations, Equipment, Training and Exercises. For a more detailed description of the approved scope of work see Attachment 1. The scope of work is the approved Application as submitted by SUBRECIPIENT with any amendments approved by RECIPIENT.

   This MOA is to set forth terms by which RECIPIENT shall provide HSGP funding to SUBRECIPIENT to fund projects related to meeting DHS National Priorities as identified in the Department of Homeland Security Notice of Funding Opportunity (NOFO) for FY2024 HSGP. See Attachment 1 for a detailed description of the approved scope of work for the approved project(s) for this grant. The scope of work is the approved Application as submitted by SUBRECIPIENT with any amendments approved by RECIPIENT.

2. **Program Authorization and Regulations**
This MOA is authorized under the provisions of: (1) Section 2002 of the *Homeland Security Act of 2002* (Pub. L. No. 107-296, as amended) (6 U.S.C. § 603), (2) Department of Homeland Security Appropriations Act, 2024, Pub. L. No. 118-47, Title III, Protection, Preparedness, Response, and Recovery (2024 DHS Appropriations Act), (3) FY 2024 HSGP NOFO, (4) applicable FEMA Grant Programs Directorate Information Bulletins, and (5) *NC Emergency Management Act*, North Carolina General Statutes (N.C.G.S.) Chapter 166A.

The funds awarded under this grant must be used in compliance with all applicable federal, state, local and tribal laws and regulations. By accepting this award, SUBRECIPIENT agrees to use these funds in a manner consistent with all applicable laws and regulations.

3. **Projects managed by RECIPIENT (NCEM) on behalf of SUBRECIPIENT - Return of Funds**
___ By initialing, SUBRECIPIENT requests that RECIPIENT (NCEM on behalf of State of North Carolina) retains all funds awarded to SUBRECIPIENT under this grant. SUBRECIPIENT desires for NCEM and/or its assigns to conduct the activities described in Attachment 1 of this MOA on its behalf. These activities are related to planning, making equipment purchases, and conducting training and exercises to improve prevention, protection, preparedness, response, and recovery capabilities. SUBRECIPIENT relieves itself from the requirements set forth in this MOA with respect to all funds returned to RECIPIENT. NCEM agrees to assume responsibility for all requirements set forth in this MOA with respect to all funds assigned to SUBRECIPIENT, if SUBRECIPIENT checks this box.

4. **Assignment of Funds by SUBRECIPIENT to Designated Third Party (not NCEM)**
___ By initialing, SUBRECIPIENT agrees to assign all funds awarded under this grant to a third party:

By signature of this MOA (at DESIGNATED THIRD PARTY on signatory page), the designated third party agrees to assume responsibility for all requirements set forth in this MOA with respect to all funds assigned to SUBRECIPIENT.

5. **Funding**
All terms and conditions of this MOA are dependent upon and subject to the allocation of funds from DHS and NCEM for the purposes set forth, and the MOA shall automatically terminate if funds cease to be available.

Allowable costs shall be determined in accordance with applicable DHS Program Guidelines, which include, but may not be limited to, the FY2024 HSGP NOFO, 2 CFR 200 Subpart E, Federal Acquisition Regulations (FAR) Part 31.2, OMB Circulars A-21, and applicable DHS and FEMA financial management guidance available at https://www.dhs.gov/dhs-grants and https://www.fema.gov/grants/guidance-tools. Allowable costs are also subject to the approval of the State Administrative Agent (SAA) for the State of North Carolina, the Secretary of the Department of Public Safety.

6. **Funding Eligibility Criteria**
Federal funds administered through RECIPIENT (NCEM on behalf of State of North Carolina) are available to local governments to assist in the cost of developing and maintaining a comprehensive homeland security response program.

Local government entities are defined in N.C.G.S. 159-44 as: "*counties; cities, towns, and incorporated villages; consolidated city-counties, as defined by G.S. 160B-2(1); sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts; metropolitan water districts; metropolitan water and sewerage districts; county water and sewer districts; regional public transportation authorities; and special airport districts*." Federally recognized tribes are also included as eligible local government pass-through entities per the FY2024 HSGP NOFO.

Continued HSGP funding is contingent upon completion of all HSGP funding requirements. The following eligibility criteria must be adhered to during the entire duration of the grant program.

SUBRECIPIENT must:

A. Be established as a state agency or as a local government entity as defined above by appropriate resolution/ordinance.

B. Have a Unique Identity ID (UEID) prior to any funds being released. UEID may be obtained from http://www.sam.gov.

C. Ensure their organization is registered with the System for Award Management (SAM) and that their organization maintains an active SAM registration, i.e. renewed annually. Every applicant is required to have their name, address, and UEID up to date in SAM, and the UEID used in SAM must be the same one used to apply for all FEMA awards. SAM information can be found at http://www.sam.gov. Future payments will be contingent on the information provided in SAM; therefore it is imperative that the information is correct, and that an active SAM registration is properly maintained.

D. Complete any procurement(s) and expenditures no later than 02/28/2027.

E. Submit requests for reimbursement (RFR) with all required documentation attached. Requests for reimbursement will not be processed unless/until annual progress report submissions are current. See paragraphs 8.C. and 11.G. below.

7. Compensation

RECIPIENT agrees that it will pay SUBRECIPIENT compensation for eligible services rendered by SUBRECIPIENT. Payment to SUBRECIPIENT for expenditures under this MOA will be reimbursed after SUBRECIPIENT's RFR is submitted and approved for eligible scope of work activity. Grant funds will be disbursed (according to the approved project budget) upon receipt of evidence that funds have been invoiced, products or services received (i.e., invoices, contracts, itemized expenses, etc.), and proof of payment is provided. Final RFR must be submitted no later 03/31/2027, unless period of performance (POP) is extended. The original signed copy of this MOA must be signed by the Official(s) authorized to sign below and returned to RECIPIENT no later than 45 days after the MOA has been submitted for execution.

This MOA shall be effective upon return of execution from SUBRECIPIENT and final approval by RECIPIENT. Upon final approval of this MOA by RECIPIENT, POP for this grant is 09/01/2024 - 02/28/2027. Grant funds will be disbursed upon receipt of evidence that funds have been invoiced, products or services received, and proof of payment is provided. Any unexpended grant funds remaining after end of POP revert to RECIPIENT.

SUBRECIPIENT:

A. Understands and acknowledges that total funding level available under this MOA will not exceed the awarded amount $15,000.00 . SUBRECIPIENT acknowledges that they are further prohibited from sub-granting these funds. Attachment 1 and any approved amendments constitute the approved scope of work for this grant award.

B. Understands and agrees that funding shall be subject to the availability of appropriated funds, pursuant to N.C.G.S 143C-1-1. However, in the event of MOA termination due to lack of adequate appropriated funds, RECIPIENT will ensure that it will pay for services and goods acquired and obligated on or before the notice of agreement termination.

C. Must meet all funding requirements contained herein. Non-compliance may result in denial of reimbursement request(s) or suspension/revocation of grant funds awarded for this project. See also paragraph 37 below regarding compliance.

8. Conditions

Funding is contingent upon completion of all funding requirements. The following conditions must be adhered to during the entire duration of the grant program.

A. SUBRECIPIENT must:

i. Complete any procurements, expenditures, and receipt of goods or services within the POP.
ii. No Match Requirement. SUBRECIPIENT is not required to provide matching funds in cash or in-kind for this award.
iii. Submit requests for reimbursement with all required documentation attached. Once RECIPIENT is satisfied that SUBRECIPIENT has provided all required documentation, the requested distributions can be processed for payment. The distributions of funds will be coded to cost center 102642-0-0-3024-19GH000108 in the North Carolina Financial System (NCFS). See SUBRECIPIENT paragraph 11.G .

B. Required Documents/Forms. SUBRECIPIENT must submit the following documents to RECIPIENT (hsgp@ncdps.gov) upon execution of this MOA. This is not required if SUBRECIPIENT has previously submitted these documents to RECIPIENT for this or any other grant; however, if any of these documents are not current, SUBRECIPIENT must submit updated document(s):

i. W-9 (09 NCAC 03M .0202)
ii. Electronic Payment / Vendor Verification Form (09 NCAC 03M .0202)
iii. Conflict of Interest Policy (G.S. 143C-6-23.(b))
iv. Sworn (Notarized) No Overdue Tax Debt Certification (G.S. 143C-6-23.(c))
v. SUBRECIPIENT Procurement Policy

C. Annual Progress Reports. Provide annual progress reports to RECIPIENT (hsgp@ncdps.gov) using the Annual Progress Report form (Attachment 2) by: 07/31/2024; 07/31/2025; and, with final RFR submitted per SUBRECIPIENT paragraph 11.G. below.

Even if there are no expenditures an annual progress report must be submitted by SUBRECIPIENT to update their progress toward completion of approved scope of work specified in Attachment 1 and any approved amendments. If SUBRECIPIENT closes their award prior to end of POP no further annual reports are required.

D. Nationwide Cybersecurity Review (NCSR). SUBRECIPIENT is required to complete the NCSR, administered by the MS-ISAC, during the first year of this grant award POP and annually thereafter through the last year of this grant award POP.

Three NCSRs are required as follows:

NCSR	Completion Period
2024	10/01/2024 - 02/28/2025
2025	10/01/2025 - 02/28/2026
2026	10/01/2026 - 02/28/2027

If SUBRECIPIENT closes their award prior to end of POP, no further annual reports are required.

9. Supplantation

Subrecipients are required to assure and certify that these grant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. Subrecipients may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

10. Scope of Work

SUBRECIPIENT shall implement the HSGP project specified in Attachment 1 and as described in the approved project application, including the project objective SUBRECIPIENT selected in the application. That application is hereby incorporated by reference into this MOA.

Documentation to be provided throughout POP:

A. Annual reports, per paragraph 8.C. above.

B. Annual NCSR, per paragraph 8.D. above.

C. SUBRECIPIENT-involved legal action that pertains to any goods or services purchased with grant funds.

D. Copies of any audits and corrective actions pertaining to these grant funds or any other funds provided to SUBRECIPIENT by RECIPIENT.

E. After-action report from exercises in accordance with Homeland Security Exercise and Evaluation Program Doctrine (HSEEP).

F. Training course roster, description and syllabus.

G. All legible and complete invoices and receipts detailing the expenditures associated with the project. Receipts must contain the following information:

i. Name and address of the vendor or establishment providing the product or service.
ii. Vendor/Payee invoice number, account number, and any other unique meaningful identifying number.
iii. Date product received or service provided.
iv. Itemized description of all products or services.
v. Unit price of products or services (if applicable).
vi. Total amount of eligible expenditures.
vii. Copy of executed contract/subcontract agreement (if applicable).
viii. Proof of payment of expenses associated with the project.

H. Any other documentation requested by RECIPIENT.

11. Responsibilities

RECIPIENT:

A. RECIPIENT shall provide funding to SUBRECIPIENT to perform the activities as described herein.

B. RECIPIENT shall conduct a review of the project to ensure that it is in accordance with HSGP requirements.

C. RECIPIENT shall monitor the completion of the approved scope of work as specified in Attachment 1 and any approved amendments.

D. RECIPIENT has obligated the funding for this MOA within 45 days of acceptance of the federal award by signing this MOA.

E. RECIPIENT shall provide required annual progress report form (Attachment 2) and provide reimbursement request forms required for reimbursement subsequent to execution of this MOA (See SUBRECIPIENT paragraph 11.G.).

SUBRECIPIENT:

A. This MOA must be signed and returned to RECIPIENT within 45 days after SUBRECIPIENT receives this MOA. The grant shall be effective upon return of the MOA.

B. SUBRECIPIENT shall expend FY 2024 HSGP funds in accordance with the FY2024 HSGP NOFO, the grant application, and this MOA.

C. Procurement.

i. SUBRECIPIENT shall utilize State of North Carolina and/or local procurement policies and procedures for the expenditure of funds, and conform to applicable state and federal law and the standards identified in 2 CFR 200.317 – 200.327.
ii. SUBRECIPIENT must follow procurement procedures and policies as outlined in the applicable FY2024 HSGP NOFO, Appendix II of 2 CFR Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and the 2024 FEMA Preparedness Grants Manual. SUBRECIPIENT shall comply with all applicable laws, regulations and program guidance. SUBRECIPIENT must comply with the most recent version of the funding administrative requirements, cost principles, and audit requirements.
iii. Administrative and procurement practices must conform to applicable federal requirements. A non-exclusive list of regulations commonly applicable to DHS grants are listed below, codified in the following guidance: 15 CFR Part 24; Federal Acquisition Regulations (FAR), Part 31.2; 28 CFR Part 23 "Criminal Intelligence Systems Operating Policies"; 49 CFR Part 1520 "Sensitive Security Information"; Public Law 107-296, The Critical Infrastructure Act of 2002; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq.; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; The Age Discrimination Act of 1975, as amended, 20 U.S.C. 6101 et. seq.; Cash Management Improvement Act (CMIA) and its implementing regulations at 31 CFR Part 205; FEMA Grant Programs Directorate, Grants Management Division, Match Guidance; Certifications and Assurances regarding Lobbying 31 U.S.C. 1352, Drug-Free Workplace Act, as amended, 41 U.S.C. 701 et. seq. and Certification Regarding Drug-Free Workplace Requirements, Debarment and Suspension Executive Orders 12549 and 12689 and certification regarding debarment, suspension and other

responsibility matters; 28 CFR Parts 66, 67, 69, 70 and 83; and Grant Award and Special Conditions documents.

iv. Mini-Brooks Act. Subrecipients that are governmental entities or otherwise subject to the requirements of the Local Government Commission (LGC) per 20 NCAC 03 are required under North Carolina law to follow rules and regulations in the "Mini-Brooks Act", G.S. 143-64.31, for the procurement of certain professional services performed by architects, engineers, surveyors, and construction managers at risk.

v. Conflicts of Interest. See paragraph 11.N.iii. below.

vi. Complete all procurement by February 28, 2027.

D. Comply with current federal laws and suspension and debarment regulations pursuant to 2 CFR 200.213 – 200.214, 2 CFR Part 180 and U.S. Office of Management and Budget (OMB) Guidance, which requires in pertinent part that when a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded.

SUBRECIPIENT shall be responsible to ensure that it has checked the federal System for Awards Management (SAM), https://sam.gov/content/exclusions and the State Debarred Vendors Listing, https://ncadmin.nc.gov/documents/nc-debarred-vendors, to verify that contractors or subrecipients have not been suspended or debarred from doing business with the federal government.

E. Per 09 NCAC 03M, agencies shall not disburse any state financial assistance to an entity that is on the Suspension of Funding List (SOFL). OSBM maintains the SOFL. The SOFL is updated on a weekly basis. SUBRECIPIENT is prohibited under this MOA from procurement, and/or contracting with any entity listed on the SOFL using these grant funds.

F. Indirect Costs. No indirect or administrative costs will be charged to this award. See 2 CFR 200.332(a).

G. Requests for Reimbursement (RFR). Submit RFR for items or services received to: hsgp@ncdps.gov. RECIPIENT will reimburse SUBRECIPIENT for eligible costs as outlined in the applicable DHS program guidelines and FY2024 HSGP NOFO. SUBRECIPIENT must take possession of all purchased equipment and receive any grant-eligible service prior to seeking reimbursement from RECIPIENT. SUBRECIPIENT must submit request for reimbursement within 60 days of payment of invoice. Requests for reimbursement submitted more than 60 days after SUBRECIPIENT payment of invoice may be denied.

RFR must include sufficient documentation that approved expenditures have been properly invoiced and paid by SUBRECIPIENT, and that the products and/or services have in fact been received by SUBRECIPIENT. RFRs must also include a cost report form (supplied by the RECIPIENT) and a summary of all expenditures included in the RFR completed by SUBRECIPIENT. Summary of expenditures should include at a minimum: vendor name, date of purchase, invoice number, total invoice amount, and reimbursable amount.

Refer to RFR webinar for guidance on proper submission of RFRs for FY24 HSGP. RFRs must be submitted in an unlocked PDF file that does not require a password or any special permissions to open. All documentation attached to RFR submitted in Salesforce must be unlocked and named in standard convention discussed in RFR webinar:

Year of Grant + MOA # + Grantee Agency + Type of Document + Date

Example: 24HSGP123_Govt_RFR #1_20250517

H. Funds Management. SUBRECIPIENT agrees that funds paid through this grant shall be accounted for in a separate fund and accounting structure within SUBRECIPIENT's central accounting and grant management system. SUBRECIPIENT agrees to manage all accounts payable disbursements, check register disbursements and related transactions in a detailed manner that supports fully transparent accounting of all financial transactions associated with the funding for this grant.

i. Expenditures for travel mileage, meals, lodging and other travel expenses incurred in the performance of this grant shall be reasonable and supported by documentation. State rates should be used as guidelines. International travel shall not be eligible under this MOA. Subrecipient must have an acceptable local travel regulation plan or accept the state travel regulations. Refer to 2 CFR 200.475 for travel costs.

ii. If eligible, SUBRECIPIENT shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this grant, pursuant to N.C.G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reported expenditures.

I. Maintain Required Subrecipient File Documentation as specified in this MOA (Attachment 5). SUBRECIPIENT is required to maintain all records of this grant for three years after termination of the grant, or audit if required, or longer where required by law, as outlined below. SUBRECIPIENT must meet the record retention requirements in 2 CFR 200.334 and must maintain a file for each HSGP grant award. However, if any litigation, claim or audit has been initiated prior to the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The following files must be available for review by NCEM staff for site visits, project closeout and audits:

i. Resolution/ordinance establishing SUBRECIPIENT as a state or local government entity.
ii. Award letter, MOA, and supporting attachments.
iii. Completed appropriate reports with specifications, solicitations, competitive quotes or proposals, basis for selection decisions, purchase orders, contracts, invoices and proof(s) of payment.
iv. Audit findings and corrective action plans.

J. Property and Equipment. SUBRECIPIENT shall have sole responsibility for the maintenance, insurance, upkeep, and replacement of any equipment procured pursuant to this MOA as follows:

i. Only allowable equipment listed in the Authorized Equipment List (AEL) for HSGP are eligible for purchases from this grant. In addition, SUBRECIPIENT will be responsible for obtaining and maintaining all necessary certifications and licenses for the requested equipment.
ii. Property and equipment purchased with HSGP funds shall be titled to SUBRECIPIENT, unless otherwise specified by NCEM, DHS and/or FEMA. SUBRECIPIENT shall be responsible for the custody and care of any property and equipment purchased with HSGP funds furnished for use in connection with this MOA, and shall reimburse RECIPIENT for any loss or damage to said property until the property is disposed of in accordance with HSGP Program requirements. RECIPIENT will not be held responsible for any property purchased under this MOA.
iii. SUBRECIPIENT must utilize all property and equipment as intended in their project application to NCEM. Any variation from this intended use must be requested in writing and approved by NCEM.
iv. RECIPIENT and SUBRECIPIENT shall take an initial physical inventory of any equipment. Equipment is defined as tangible, non-expendable property having a useful life of more than one year and an acquisition cost of $10,000 or more per unit. SUBRECIPIENT may have property management guidelines that are more restrictive, requiring a unit of equipment with a value of less than $10,000 to be inventoried. If so, such equipment purchased under this award allocation shall be included on the report submitted to RECIPIENT. The grant summary, cost reports with backup documentation, certificate of title, and any other SUBRECIPIENT reports or inventory reports that include information regarding the grant, vendor, invoice number, cost per item, number of items, description, location, condition, and identification number may be used to meet this requirement.
v. SUBRECIPIENT must ensure a control system exists to ensure adequate safeguards to prevent loss, damage, or theft. SUBRECIPIENT shall be responsible for replacing or repairing equipment which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage or theft of the property must be investigated and fully documented and made part of the official project records.
vi. SUBRECIPIENT or equipment owner must ensure adequate maintenance procedures exist to keep the equipment in good condition.
vii. Use. Per 2 CFR 200.313, during the time that equipment is used on the project or program for which it was acquired, SUBRECIPIENT must also make the equipment available for use on other projects or programs currently or previously supported by this or other federal grants, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by DHS that financed the equipment and second preference must be given to other programs or projects under grants from other federal awarding agencies. NCEM, in conjunction with DHS and/or FEMA, will determine and direct how equipment will be redeployed.

viii. Disposition Procedures. Unless otherwise directed by RECIPIENT, DHS and/or FEMA, SUBRECIPIENT may dispose of the equipment when the original or replacement equipment acquired under the grant award is no longer needed for the original project or program, or for other activities currently or previously supported by a federal awarding agency. However, SUBRECIPIENT must notify RECIPIENT prior to disposing of any equipment purchased with grant funds. Items with a fair market value of less than $10,000 may be retained, transferred, or otherwise disposed of with prior approval of NCEM and in accordance with disposition requirements in 2 CFR 200.313. Unless otherwise directed by NCEM, DHS and/or FEMA, items with a current per unit standard federal or fair market value in excess of $10,000 may not be retained, transferred, or otherwise disposed of without prior NCEM approval in accordance with disposition requirements in 2 CFR 200.313. SUBRECIPIENT must provide documentation that includes the method used to determine current fair market value.

ix. Communications equipment. Investments in emergency communications systems and equipment must meet applicable SAFECOM Guidance recommendations. Such investments must be coordinated with the Statewide Inoperability Coordinator (SIEC) to ensure interoperability and long-term compatibility. In order to align communications technologies with current statewide communications plans, systems, networks, strategies, and emerging technologies, the NCEM Communications Branch requires that purchases made with grant funds meet the standards identified in Attachment 6.

K. The purchase or acquisition of any additional materials, equipment, accessories or supplies, or the provision of any training, exercise or work activities beyond that identified in the approved scope of work specified in Attachment 1 and any approved amendments, shall be the sole responsibility of SUBRECIPIENT and shall not be reimbursed under this MOA.

L. Conflicts of Interest.

i. State Law. Per N.C.G.S. § 143C-6-23(b), SUBRECIPIENT is required to file with RECIPIENT a copy of SUBRECIPIENT's policy addressing conflicts of interest that may arise involving SUBRECIPIENT's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as SUBRECIPIENT's employees or members of its board or other governing body, from RECIPIENT's disbursing of grant funds, and shall include actions to be taken by SUBRECIPIENT or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. **The policy shall be filed before RECIPIENT may disburse any grant funds.**

ii. Federal Law – Grant Administration. Per 2 CFR 200.112 and the 2024 FEMA Preparedness Grants Manual, all subrecipients must disclose in writing to NCEM, and attempt to avoid, any real or potential conflict of interest that may arise during the administration of a federal grant award. For purposes of this MOA, conflicts of interest may arise in situations where a subrecipient employee, officer, or agent, any members of his or her immediate family, or his or her partner has a family relationship, close personal relationship, business relationship, or professional relationship, with anybody at DHS, FEMA and/or NCEM involved in the administration of this grant award.

iii. Federal Law – Procurement. Per 2 CFR 200.318 and the 2024 FEMA Preparedness Grants Manual, all subrecipients that are non-federal entities other than states are required to maintain written standards of conduct covering conflicts of interest and governing the actions of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such conflicts of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, subrecipients may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the subrecipient. All subrecipients must disclose in writing to NCEM, and attempt to avoid, any real or potential conflicts of interest with respect to procurement, contracting and subcontracting with funds provided under this grant award. Upon request, subrecipients must also provide a copy of their standards of conduct policy covering conflicts of interest with respect to procurement, contracting and subcontracting with funds provided under this grant award.

M. Environmental Planning and Historic Preservation (EHP) Compliance. Subrecipients proposing projects that could impact the environment, including, but not limited to, the construction of communication towers, modification or renovation of existing buildings, structures, and facilities, or new construction including replacement of facilities, must participate in the DHS/FEMA EHP review process. For details: https://www.fema.gov/grants/preparedness/preparedness-grants-ehp-compliance. See paragraph 16. below.

N. All materials publicizing or resulting from award activities, including websites, social media and TV/radio, shall contain this acknowledgement: "This project was supported by a federal award from the US Department of Homeland Security, Department of Public Safety, North Carolina Emergency Management." Use of DHS seal(s), logo(s) and flags must be approved by DHS. Printed as a legend, either below or beside the logo(s) shall be the words "Funded by US Department of Homeland Security".

O. Comply with the applicable federal statutes, regulations, policies, guidelines, requirements and certifications as outlined in the FY 2024 HSGP NOFO and Subaward Notification.

P. DHS Standard Terms and Conditions
SUBRECIPIENT must comply with all applicable provisions of the FY24 DHS Standard Terms and Conditions (Attachment 4). This applies to all new federal financial assistance awards funded in FY24. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

Q. Closeout Reporting Requirements. In accordance with 2 CFR 200.344, SUBRECIPIENT must submit to RECIPIENT, no later than 90 calendar days after the end date of the POP, all financial, performance, and other reports as required by the terms and conditions of the federal award, this MOA and FY24 DHS Standard Terms and Conditions (Attachment 4) incorporated by reference herein, for the performance of the activities.

Documentation required
i. A complete accounting of how all grant funds were used.
ii. A Certification stating the funds were used for the purpose appropriated.
iii. A closeout letter indicating that the approved scope of work is complete.
iv. Any other closeout documentation requested by RECIPIENT.
v. SUBRECIPIENT agrees that all program activity results information reported shall be subject to review and authentication and SUBRECIPIENT will provide access to work papers, receipts, invoices and reporting records, if requested by RECIPIENT, as RECIPIENT executes any audit internal audit responsibilities.
vi. Once the complete final performance and financial status report package has been received and evaluated by RECIPIENT, SUBRECIPIENT will receive official notification of MOA close-out from RECIPIENT.
vii. The notification will inform SUBRECIPIENT that RECIPIENT is officially closing the MOA and retaining all MOA files and related material for a period of five (5) years or until all audit exceptions have been resolved, whichever is longer.

R. Provide a list at project closeout to designated NCEM Grants Manager and NCEM Grants Management Branch (hsgp@ncdps.gov), DPR Chair as applicable, and Branch Office of all items purchased through this grant. This information is to be reported on the "Grant-Funded Typed Resource Report" (Attachment 3) or similar spreadsheet. See FEMA Resource Typing Library Tool (RTLT): https://rtlt.preptoolkit.fema.gov/Public

12. Taxes
SUBRECIPIENT shall be considered to be an independent subrecipient and as such shall be responsible for ALL taxes. There shall be no reimbursement for taxes incurred by SUBRECIPIENT under this grant. If eligible, SUBRECIPIENT shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this grant, pursuant to N.C.G.S. 105-164.14; and (b) exclude all refundable sales and use taxes from all reported expenditures.

13. Warranty

As an independent subrecipient, SUBRECIPIENT will hold RECIPIENT harmless for any liability and personal injury that may occur from or in connection with the performance of this MOA to the extent permitted by the North Carolina Tort Claims Act. Nothing in this MOA, express or implied, is intended to confer on any other person any rights or remedies in or by reason of this MOA. This MOA does not give any person or entity other than the parties hereto any legal or equitable claim, right or remedy. This MOA is intended for the sole and exclusive benefit of the parties hereto. This MOA is not made for the benefit of any third person or persons. No third party may enforce any part of this MOA or shall have any rights hereunder. This MOA does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this MOA. Nothing herein shall be construed as a waiver of the sovereign immunity of the State of North Carolina.

14. State of North Carolina Reporting Requirements per NCGS 143C-6-23 and 09 NCAC 03M

North Carolina state law (N.C.G.S. 143C-6-23 and 09 NCAC 03M) requires every nongovernmental entity (including non-profit organizations) that receives state or federal pass-through grant funds from state agencies to file annual reports on how those grant funds were used no later than three months after the end of the non-state entity's fiscal year. **Government entities including counties and local governments are not required to file these reports**. Refer to "State Grant Compliance Reporting Forms" on the following website for instructions and applicable forms for nongovernmental subrecipients (including non-profit organizations) to meet these requirements: https://www.ncdps.gov/our-organization/emergency-management/emergency-management-grants/grants-management-compliance.

15. Audit Requirements

For all federal grant programs, SUBRECIPIENT is responsible for obtaining audits in accordance with 2 CFR 200 Subpart F.

Per 2 CFR 200.501, a subrecipient that receives a combined $1,000,000 or more in funding from all federal funding sources, even those passed through a state agency, must have a single audit conducted in accordance with 2 CFR 200.514 and GAGAS within 9 months of the subrecipient's fiscal year end. SUBRECIPIENT must:

A. Post the single audit conducted in accordance with 2 CFR 200.514 and GAGAS to the Federal Audit Clearinghouse https://harvester.census.gov/facweb/.

B. Submit to DPS Internal Audit (DPS_GrantComplianceReports@ncdps.gov) a single audit prepared and completed in accordance with GAGAS. This can, at the option of SUBRECIPIENT, be the same single audit submitted to the Federal Audit Clearinghouse in paragraph 15.A. above.

C. Make copies of the single audit available to the public.

Per 09 NCAC 03M.0205, a non-state entity that is not exempt from the requirements of SUBCHAPTER 03M – UNIFORM ADMINISTRATION OF STATE AWARDS OF FINANCIAL ASSISTANCE per 09 NCAC 03M.0201, that receives a combined $1,000,000 or more in North Carolina state funding or federal funding passed through a state agency must within 9 months of the non-state entity's fiscal year end submit to DPS Internal Audit (DPS_GrantComplianceReports@ncdps.gov) a single audit prepared and completed in accordance with Generally Accepted Government Auditing Standards (GAGAS): https://www.gao.gov/yellowbook.

If SUBRECIPIENT is a unit of local government in North Carolina, SUBRECIPIENT may be subject to the audit and reporting requirements in N.C.G.S. 159-34, Local Government Finance Act – Annual Independent Audit, rules and regulations. Such audit and reporting requirements may vary depending upon the amount and source of grant funding received by the SUBRECIPIENT and are subject to change (see Local Government Commission for more information). See also 20 NCAC 03 (Local Government Commission).

The different audit requirements for non-governmental and governmental entities are summarized on the NCEM Grants Management & Compliance website.

16. Construction and Renovation, and Infrastructure Projects

All construction and renovation projects require EHP review. Recipients and subrecipients are encouraged to have completed as many steps as possible for a successful EHP review in support of their proposal for funding (e.g., coordination with their State Historic Preservation Office to identify potential historic preservation issues and to discuss the potential for project effects, compliance with all state and local EHP laws and requirements). Projects for which the recipient believes an Environmental Assessment (EA) may be needed, as defined in DHS Instruction Manual 023-01-001-01, Rev 01, FEMA Directive 108-1, and FEMA Instruction 108-1-1, must also be identified to the FEMA HQ Preparedness Officer within six months of the award and completed EHP review materials must be submitted no later than 12 months before the end of the POP. EHP policy guidance and the EHP Screening Form, can be found online at: https://www.fema.gov/media-library/assets/documents/90195. EHP review materials should be sent to hsgp@ncdps.gov.

Written approval must be provided by FEMA prior to the use of any HSGP funds for construction or renovation. When applying for construction funds, subrecipients must submit evidence of approved zoning ordinances, architectural plans, and any other locally required planning permits. Additionally, subrecipients are required to submit a SF-424C form with budget information for the construction project, and an SF-424D form for standard assurances for the construction project.

Subrecipients using funds for construction projects must comply with:

A. Davis-Bacon Act (codified as amended at 40 U.S.C. §§ 3141 et seq.). See 6 U.S.C. § 609(b)(4)(B) (cross-referencing 42 U.S.C. § 5196(j)(9), which cross-references Davis-Bacon). Subrecipients must ensure that their contractors or subcontractors for construction projects pay workers no less than the prevailing wages for laborers and mechanics employed on projects of a character like the contract work in the civil subdivision of the state in which the work is to be performed. Additional information regarding compliance with the Davis-Bacon Act, including Department of Labor (DOL) wage determinations, is available online at https://www.dol.gov/whd/govcontracts/dbra.htm.

B. Build America, Buy America Act (BABAA)

   If funding from this grant program is used for an "infrastructure" project, all iron, steel, manufactured products & construction materials used in the project must be produced in the U.S. per the *Build America, Buy America Act* (BABAA), unless an approved waiver applies, including the Small Projects Waiver, which waives the BABAA requirements for all projects that do not exceed the federal simplified acquisition threshold (currently set at $250,000). Recipients and subrecipients of this grant must also ensure that all contracts (including purchase orders) subject to BABAA include a required contract clause and self-certification of compliance pursuant to *FEMA Interim Policy #207-22-0001: Buy America Preference in FEMA Financial Assistance Programs for Infrastructure.*

   Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in BABAA shall file the required certification to the non-federal entity with each bid or offer for an infrastructure project unless a domestic preference requirement is waived by FEMA. Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that does not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to the recipient who, in turn, will forward the disclosures to FEMA, the federal awarding agency; subrecipients will forward disclosures to the pass-through entity, who will, in turn, forward the disclosures to FEMA.

17. Subrecipient Monitoring

See Attachment 7 for subrecipient monitoring.

18. Points of Contact

To provide consistent and effective communication between SUBRECIPIENT and RECIPIENT, each party shall appoint a principal representative(s) to serve as its central point(s) of contact (POC) responsible for coordinating and implementing this MOA. The NCEM contacts shall be: Assistant Director for Homeland Security, Assistant Director - Administration, the NCEM Grants Management Branch staff, and the NCEM Field Branch staff. SUBRECIPIENT point(s) of contact shall be the person(s) designated by SUBRECIPIENT in the approved application (Attachment 1), unless otherwise specified by SUBRECIPIENT. Each party shall keep the other apprised of changes to their POC.

All confidential information of either party disclosed to the other party in connection with the services provided hereunder will be treated by the receiving party as confidential and restricted in its use to only those uses contemplated by the terms of this MOA. Any information to be treated as confidential must be clearly marked as confidential prior to transmittal to the other party. Neither party shall disclose to third parties, the other party's confidential information without written authorization to do so from the other party. Specifically excluded from such confidential treatment shall be information that:

A. As of the date of disclosure and/or delivery, is already known to the party receiving such information.

B. Is or becomes part of the public domain, through no fault of the receiving party.

C. Is lawfully disclosed to the receiving party by a third party who is not obligated to retain such information in confidence.

D. Is independently developed at the receiving party by someone not privy to the confidential information.

19. Public Records Access

While this information under federal control is subject to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 et. seq., all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office.

Information maintained by RECIPIENT in connection with this MOA and grant award is subject to the North Carolina Public Records Act, Chapter 132 of the North Carolina General Statutes and is subject to public records requests through NCDPS.

20. Contracting/Subcontracting

If SUBRECIPIENT contracts/subcontracts any or all purchases or services under this MOA, then SUBRECIPIENT agrees to include in the contract/subcontract that the contractor/subcontractor is bound by the terms and conditions of this MOA. SUBRECIPIENT and any contractor/subcontractor agree to include in the contract/subcontract that the contractor/subcontractor shall hold NCEM harmless against all claims of whatever nature arising out of the contractors/subcontractor's performance of work under this MOA.

If SUBRECIPIENT contracts/subcontracts any or all purchases or services required under this MOA, a copy of the executed contract/subcontract agreement must be submitted to NCEM along with the RFR in accordance with SUBRECIPIENT responsibilities in paragraph 11.G. above. A contractual arrangement shall in no way relieve SUBRECIPIENT of its responsibilities to ensure that all funds issued pursuant to this grant be administered in accordance with all state and federal requirements. SUBRECIPIENT is bound by all special conditions of this grant award as set out in the grant application and the grant award letter Subaward Agreement incorporated by reference herein, as well as all terms, conditions, and restrictions of the FY2024 HSGP NOFO referenced herein.

21. Antitrust Laws

All signatories of this MOA will comply with all applicable state and federal antitrust laws.

22. Prohibition on purchasing certain telecommunications - John S. McCain National Defense Authorization Act for Fiscal Year 2019 – Public Law 115-232, section 889 – 2 CFR 200.216, 200.327 & 200.471

Effective August 13, 2020, FEMA grant recipients and subrecipients may not use any FEMA funds under open or new awards to procure certain covered telecommunications equipment or services.

Definitions

Per section 889(f)(2)-(3) of the FY 2019 NDAA and 2 C.F.R. § 200.216, 200.327 & 200.471, covered telecommunications equipment or services means:

A. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);

B. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

C. Telecommunications or video surveillance services provided by such entities or using such equipment; or

D. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

Examples of the types of products covered by this prohibition include phones, internet, video surveillance, and cloud servers when produced, provided, or used by the entities listed in the definition of "covered telecommunications equipment or services." See 2 C.F.R. § 200.471.***FEMA Policy #405-143-1***Guidance is available in FEMA Policy #405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services issued May 10, 2022.

23. Divestment and Do-Not-Contract Rules

The State of North Carolina, through the Department of State Treasurer, follows several divestment and do-not-contract mandates. Information about each of these mandates is available at: https://www.nctreasurer.com/about/transparency/commitment-transparency/divestment-and-do-not-contract-rules.

SUBRECIPIENT may not contract with any vendors on any of these designated divestment and do-not-contract lists using HSGP grant funds, and SUBRECIPIENT must comply with all other requirements of these divestment and do-not-contract laws.

24. Acknowledgement of Federal Funding from DHS

Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

25. Lobbying Prohibition

SUBRECIPIENT certifies, to the best of its knowledge and belief, that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person or employee of any state or federal agency, a member of the NC General Assembly, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

26. Assurance of Compliance with Civil Rights Act of 1964 – Title VI, Civil Rights Act of 1968, and Related Provisions

During the performance of this agreement, SUBRECIPIENT for itself, its assignees and successors in interest agrees as follows:

A. Age Discrimination Act of 1975
Subrecipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

B. Americans with Disabilities Act of 1990
Subrecipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101 - 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

C. Civil Rights Act of 1964 - Title VI
Subrecipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21. Subrecipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

D. Civil Rights Act of 1968
Subrecipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units - i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators) - be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

E. Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX
Subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

F. E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety
Recipients and subrecipients that are State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074 which addresses the transfer or purchase of certain military equipment by law enforcement. Recipients and subrecipients that are State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

G. Limited English Proficiency (Civil Rights Act of 1964 - Title VI)
Subrecipients must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please

refer to the DHS Recipient Guidance: https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

H. Nondiscrimination in Matters Pertaining to Faith-Based Organizations
It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statues, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

I. Rehabilitation Act of 1973
Subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance

J. Whistleblower Protection Act
Subrecipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

27. Assurance of Compliance with Privacy Act
SUBRECIPIENT agrees:

A. To comply with the provisions of the Privacy Act of 1974, 5 U.S.C. §552A and regulations adopted there under, when performance under the program involves the design, development, or operation of any system or records on individuals to be operated by the Subrecipient, its third-party subrecipients, contractors, or their employees to accomplish a DHS function.

B. To notify DHS when the Subrecipient or any of its third-party contractors, subcontractors, subrecipients, or their employees anticipate a system of records on behalf of DHS in order to implement the program, if such system contains information about individuals name or other identifier assigned to the individual. A system of records subject to the Act may not be used in the performance of this MOA until the necessary and applicable approval and publication requirements have been met.

C. To include in every solicitation and in every third-party contract, sub-grant, and when the performance of work, under that proposed third-party contract, sub-grant, or sub-agreement may involve the design, development, or operation of a system of records on individuals to be operated under that third-party contract, sub grant, or to accomplish a DHS function, a Privacy Act notification informing the third party contractor, or subrecipient, that it will be required to design, develop, or operate a system of records on individuals to accomplish a DHS function subject to the Privacy Act of 1974, 5 U.S.C. §552a, and applicable DHS regulations, and that a violation of the Act may involve the imposition of criminal penalties; and

D. To include the text of Sections 30 parts A through C in all third-party contracts, and sub grants under which work for this MOA is performed or which is awarded pursuant to this MOA, or which may involve the design, development, or operation of a system of records on behalf of the DHS.

28. Best Practices for Collection and Use of Personally Identifiable Information
Subrecipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

29. Certification Regarding Drug-Free Workplace Requirements (Subrecipients Other Than Individuals)
Subrecipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Governmentwide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

30. Term of this Agreement
Regardless of actual execution date, this MOA shall be in effect from the start of the POP on 09/01/2024 to the end of the POP.

31. Statement of Assurances
SUBRECIPIENT must complete either Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, or both, as applicable.

A. Subrecipients that only have construction work and do not have any non-construction work need only submit the construction form (i.e., SF-424D) and not the non-construction form (i.e., SF-424B), and vice versa. However, subrecipients who have both construction and non-construction work under this grant must submit both the construction and non-construction forms.

B. SUBRECIPIENT must complete the appropriate form(s) and submit to NCEM Grants Management Branch (hsgp@ncdps.gov) upon execution of this MOA. SUBRECIPIENT must still complete the appropriate form(s) even if certain assurances in the form may not directly apply to SUBRECIPIENT's specific program to ensure that all possible situations are covered.

32. Situs
This MOA shall be governed by the laws of North Carolina and any claim for breach or enforcement shall be filed in State Court in Wake County, North Carolina.

33. Other Provisions/Severability
Nothing in this MOA is intended to conflict with current federal, state, local, or tribal laws or regulations. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOA shall remain in full force and effect.

34. Entire Agreement
This MOA and any annexes, exhibits and amendments annexed hereto and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral and written statements or agreements.

35. Modification
This MOA may be amended only by written amendments duly executed by RECIPIENT and SUBRECIPIENT.

36. Termination
The terms and conditions of this MOA, as modified with the consent of all parties, will remain in effect until February 28, 2027. Either party upon thirty days advance written notice to the other party may terminate this MOA. Upon approval by DHS, FEMA and the issuance of the Grant Adjustment Notice, if this MOA is extended, the termination date for the extension will be the date listed in the applicable DHS, Grant Adjustment Notice, incorporated by reference herein. If DHS suspends or terminates funding in accordance with 2 CFR 200.340 and the 2024 HSGP NOFO, incorporated by reference herein, SUBRECIPIENT shall reimburse NCEM for said property and/or expenses.

37. Compliance
SUBRECIPIENT shall comply with applicable federal, state, local and/or tribal statutes, regulations, ordinances, licensing requirements, policies, guidelines, reporting requirements, certifications and other regulatory matters for the conduct of its business and purchase requirements performed under this MOA. This includes all requirements contained in the applicable FY 2024 HSGP NOFO referenced in paragraph 2. above. SUBRECIPIENT shall be wholly responsible for the purchases made under this MOA and for the supervision of its employees and assistants. Failure to comply with the specified terms and conditions of this MOA may result in the return of funds and any other remedy for noncompliance specified in 2 CFR 200.339, and/or termination of the award per 2 CFR 200.340. Additional conditions may also be placed upon SUBRECIPIENT for noncompliance with the specified terms and conditions of this MOA, including (but not limited to) additional monitoring. See Attachment 6 for subrecipient monitoring.

38. Execution and Effective Date

This grant shall become effective upon return of the original grant award letter and MOA, properly executed on behalf of SUBRECIPIENT, to NCEM on behalf of RECIPIENT and will become binding upon execution of all parties to this MOA. The conditions of this MOA are effective upon signature by all parties.
This MOA shall be in effect from start of POP on 9/1/2024 through end of POP. Failure to provide applicable cost reports, proofs of payment and/or a de-obligation request letter within 30 days of the end of the POP may result in automatic de-obligation of grant funds.

39. Attachments

All attachments to this Agreement are incorporated as if set out fully herein.

A. In the event of any inconsistency or conflict between the language of this MOA and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

B. This MOA includes the following attachments or documents incorporated by reference as if fully set out herein:
- Attachment 1 Scope of Work
- Attachment 2 Annual Progress Report Form
- Attachment 3 Grant-Funded Typed Resource Report
- Attachment 4 DHS Standard Terms and Conditions
- Attachment 5 Required Subrecipient File Documentation
- Attachment 6 NCEM Communications Branch Memo
- Attachment 7 Subrecipient Monitoring

AUTHORIZED SIGNATURE WARRANTY

THE UNDERSIGNED REPRESENT AND WARRANT THAT THEY ARE AUTHORIZED TO BIND THEIR PRINCIPALS TO THE TERMS OF THIS MOA. IN WITNESS WHEREOF, RECIPENT AND SUBRECIPIENT HAVE EACH EXECUTED THIS MOA AND THE PARTIES AGREE THAT THE MOA IS EFFECTIVE AS OF THE POP START DATE, EVEN IF THIS MOA IS SIGNED BY ANY PARTIES AFTER THAT DATE.

For RECIPIENT:

By: DocuSigned by: William Ray BD9D1C9856624CB... **Date:** 11/7/2024 | 08:59:48 EST

William C. Ray, Director & Deputy
Homeland Security Advisor
North Carolina Department of Public Safety
Division of Emergency Management

For SUBRECIPIENT:

By: DocuSigned by: Perry Davis 94FA7BDB62C34D0... **Date:** 11/7/2024 | 09:56:52 EST

By: Signed by: Philip Steffen 324F9A27F1D5494... **Date:** 11/15/2024 | 16:34:35 EST

By: ______________________ **Date:** ______________

<u>**Approved as to Form**</u>**:**

By: DocuSigned by: William Polk 89E06A3C9472449... **Date:** 11/5/2024 | 18:25:35 EST

William Polk, Deputy General Counsel
Reviewed for the North Carolina
Department of Public Safety to fulfill the
purposes of the DHS Homeland Security
Grant Program

Attachment 1

2024 NCEM Homeland Security Grant Program (HSGP) Application

To submit this application, rename the file to this format: [county/agency] "2024 HSGP Grant Application" and forward to hsgp@ncdps.gov.

Organization

Legal name: Cleveland County Emergency Management

Street: 1333 Fallston Rd. P.O. Box 2232

City: Shelby Zip Code: 28150

FEIN: 56-6000288

UEID: MXEZRW9DKR8

SAM registered: (•) Yes ( ) No SAM Expiration date: 07/26/2024

Point of Contact

Name: Perry Davis Title: Emergency Management Coordinator

Email: perry.davis@clevelandcountync.gov Phone: 704-484-4841

Project Information

Title: Starlink Communication Device Project

Purpose: DPR 7 would like to purchase 7 Starlink devices to provide a communication resource to the region and state. This equipment would be used to increase communication through all disciplines during various types of incidents, . The purpose of the Starlink is to increase wireless capabilities for internet and cell phones when coverage may be reduced

Nexus to terrorism: The Starlink devices will assist with improving communication and connectivity for all agencies within DPR7 and the State, especially where the signal for internet and communication devices is low or non-existent. This would be a valuable asset during emergency events such as CBRNE/terrorism events.

This equipment will assist our jurisdiction in the preparation for, protection against, mitigation of, prevention of, and/or response to all types of incidents. This equipment

Gap addressed: Communication/connectivity during any emergency or event is key and the Starlink devices would provide an additional resource to the region and state for those responding agencies.

Classification: DPR DPR: 7

This project is: ☑ Deployable ☐ Shareable ☑ LETP - allowable

This project supports a Fusion Center: ○ Yes ● No

This project supports a previously awarded project: ○ Yes ● No

Year of award	Project	Award amount	Status
			○ Plan ○ Execute ○ Closeout
			○ Plan ○ Execute ○ Closeout
			○ Plan ○ Execute ○ Closeout

Project Requires an Environmental Planning & Historic Preservation (EHP) Assessment : ○ Yes ● No

National Priority Area: Enhancing information and intelligence sharing and analysis

Core capabilities addressed

Primary: Operational communications

How capability is supported:

The Starlink Project allows us to provide a redundant connection for internet services when other resources may be limited. Technology has improved over time and internet service on scene and responding units is used to ensure all information is timely and accurate.

Secondary: Situational awareness

How capability is supported:

Starlink devices would provide an additional resource to ensure information is available and shared throughout all responding agencies during emergencies or other events.

Capabilities building: ● Build (increase current capabilities) ○ Sustain(continue current capabilities)

Project target milestones

Milestone	Target date
Sign MOA	10/31/24
Implement	12/31/24
Report all	02/28/27
Close out	04/30/27

Planning/Organization/Training/Exercises Costs

Category	Description	Total Cost

Equipment Costs

Qty	AEL #	Description	Total Cost
7	06CC-04-EQSD	Starlink Communication Device	15,000.00

Funding Summary

Category	Total Cost
Planning	0.00
Organization	0.00
Equipment	15,000.00
Training	0.00
Exercises	0.00
Total	**15,000.00**

Additional Information

Acknowledge the following statements (check all eight, or application will be considered incomplete):

- ☐ This application includes complete and accurate information.
- ☐ Any project having the potential to impact the environment, historic or cultural resources must submit an Environmental Planning & Historic Preservation (EHP) form.
- ☐ Projects with funds allocated for Emergency Communications must meet applicable SAFECOM Guidance recommendations. Such investments must be coordinated with the NC State Interoperability Executive Committee (SIEC) to ensure interoperability and long-term compatibility.
- ☐ Receiving HSGP funding requires annual Nationwide Cybersecurity Review (no cost).
- ☐ Projects with funds allocated for equipment are required to check all equipment purchases against the FEMA Authorized Equipment List.
- ☐ Any changes made to this grant application after the submission deadline must be approved by the NCEM Grants Manager, and an updated application must be submitted.
- ☐ Submission of the project proposal does not guarantee funding.
- ☐ Any person who knowingly makes a false claim or statement in connection with this application may be subject to civil or criminal penalties under 18 U.S.C. section 287, 18 U.S.C. section 1001, 31 U.S.C. section 3729 and N.C.G.S sections 1-605 through 618 (North Carolina False Claims Act).
- ☐ If applying as a non-profit entity, the entity is operating on behalf of a council of government or as a regional or interstate governmental entity.

Sensitive Information (certify this statement only if applicable):

- ☐ Check this box if this application includes or contains “security features of electronic data processing systems, information technology systems, telecommunications networks, or electronic security systems, including hardware or software security, passwords, or security standards, procedures, processes, configurations, software, and codes” that you certify is not subject to public release per N.C.G.S. 132-6.1(c).

Attachment 2

Annual Progress Report

FY 2024 HSGP

Subrecipient: Cleveland County
MOA #: 24HSGP024
Grant award amount: $ 15,000.00

Complete the funds-expended blanks, activities status, and submission information for annual period indicated below.		
Annual	☐ 09/01/24– 06/30/25 (due 07/31/25) ☐ 07/01/25 – 06/30/26 (due 07/31/26) ☐ 07/01/27 – End of POP (due 03/31/27, unless POP extended)	
FY24 HSGP funds expended prior annual periods	Click or tap here to enter text.	
FY24 HSGP funds expended this annual period	Click or tap here to enter text.	

Activities	**Metric**	**Current Status**
Equipment	Dates, current status. For examples, list identified needs, items in vendor negotiation, purchased, placed in service, etc.	
Planning	Dates, current status. For examples, list identified needs, updates or revisions made to plans, or those to be made.	
Operations	Salaries and wages for emergency management personnel.	
Training	Dates, status of training. For example, list identified needs, training planned, in progress, or conducted. Attach agenda and roster.	
Exercise	Dates, status of exercise. For example, list identified needs, exercise(s) planned, in progress, or conducted. Attach after action report.	

Submitted by	Click or tap here to enter text.
Date	Click or tap here to enter text.

Forward the completed report to **hsgp@ncdps.gov**.

Attachment 3

Attachment 3 - EXAMPLE **Grant-Funded Typed Resource Report**

Tool Instructions:

1. Each row should contain one piece of equipment purchased with or training held using grant funds for current reporting period. **Only report purchases and trainings that have already been completed and funds have been expended and drawn down.**
2. Choose from the drop-down menu whether the line is for equipment or training, the NIMS Typed Discipline, NIMS Typed Resource and NIMS Type #, as published by FEMA's National Integration Center (NIC) that the equipment supports, if NIMS Typed.

2a. If equipment or training is not NIMS Typed, choose "State/Local Other" in drop-down menu and provide State/Local typing or Community of Interest information in the Comments.

3. Choose whether the piece of equipment or training is to "Sustain Current" existing capabilities or will increase or "Add New" capability .
4. Choose the Core Capability or Capabilities that the Typed Resource supports. If more than one Core Capability is applicable, expand the columns by clicking the '+' above the 'Cost of Purchase' column to show more 'Core Capability Supported' columns.
5. Enter the cost of the equipment or training.
6. Enter additional information in the Comments, including a brief description of whether the training or equipment purchased sustains existing capabilities; adds or improves an existing capability; or builds a new capability from scratch. This Form Can be accessed at www.fema.gov/media-library/assets/documents/28973?id=6432

SUBGRANTEE:	**GRANT#:**	**PROJECT:**
Carolina County	2013-SS-00033-S01-13xx	Generators & Generator Switches

Equipment or Training	NIMS Typed Discipline or State/Local Discipline/Community of Interest Supported	NIMS Typed Resource Supported	NIMS Type #	State/Local Typed Resource Supported (if applicable)	Typed Equipment Purchased	# of Personnel Trained for Typed Teams	# of Typed Teams Trained	Sustain Current Capability/Add New Capability	Core Capability Supported	Cost of Purchase	Comments
Equipment	Fire / Hazmat	HazMat Entry Team	I	N/A	WMD Liquid Splash-Protective CPC	N/A	N/A	Add New	Environmental Response / Health and Safety	$ 90,000.00	This new PPE will increase a Type II to a Type I HazMat Entry Team by fullfiling the PPE requirements for a Type I team. This investment completes the upgrade of this team.
Training	Incident Management	Incident Management Team	III	N/A	N/A	55	3	Sustain Current	Operational Coordination	$ 150,000.00	This Training sustained policy awareness for a State and two Regional IMTs. This training maintains emergency staff awareness that would have otherwise been out-of-date within 3 months of the training.
Equipment	Public Health and Medical	State / Local Other (provide in comments section)	State / Local Other	Water Ambulance	ALS Rescue Boat	N/A	N/A	Add New	Mass Care Services	$ 100,000.00	The ALS Rescue Boat meets State typing for Water Ambulance. This equipment purchase adds a new capability to the local EMS. Teams will begin training to complete the resource.
Training	Search and Rescue	US&R Task Forces	II	N/A	N/A	63	23	Sustain Current	Mass Search and Rescue Operations	$ 75,000.00	63 Responders were trained in structural collapse to support 23 Type II USAR Teams. This training sustained current levels of staffing in anticipation of current staff retiring.

Attachment 3 **Grant-Funded Typed Resource Report**

Tool Instructions:

1. Each row should contain one piece of equipment purchased with or training held using grant funds for current reporting period. **Only report purchases and trainings that have already been completed and funds have been expended and drawn down.**
2. Choose from the drop-down menu whether the line is for equipment or training, the NIMS Typed Discipline, NIMS Typed Resource and NIMS Type #, as published by FEMA's National Integration Center (NIC) that the equipment supports, if NIMS Typed.

2a. If equipment or training is not NIMS Typed, choose "State/Local Other" in drop-down menu and provide State/Local typing or Community of Interest information in the Comments.

3. Choose whether the piece of equipment or training is to "Sustain Current" existing capabilities or will increase or "Add New" capability .
4. Choose the Core Capability or Capabilities that the Typed Resource supports. If more than one Core Capability is applicable, expand the columns by clicking the '+' above the 'Cost of Purchase' column to show more 'Core Capability Supported' columns.
5. Enter the cost of the equipment or training.
6. Enter additional information in the Comments, including a brief description of whether the training or equipment purchased sustains existing capabilities; adds or improves an existing capability; or builds a new capability from scratch.

SUBGRANTEE:		**GRANT#:**		**PROJECT:**							
Equipment or Training	**NIMS Typed Discipline or State/Local Discipline/Community of Interest Supported**	**NIMS Typed Resource Supported**	**NIMS Type #**	**State/Local Typed Resource Supported (if applicable)**	**Typed Equipment Purchased**	**# of Personnel Trained for Typed Teams**	**# of Typed Teams Trained**	**Sustain Current Capability/Add New Capability**	**Core Capability Supported**	**Cost of Purchase**	**Comments**

Attachment 4

FY 2024 DHS STANDARD TERMS AND CONDITIONS

The Fiscal Year (FY) 2024 Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2024 and flow down to subrecipients unless a term or condition specifically indicates otherwise. For federal awards that may involve continuation awards made in subsequent FYs, these FY 2024 DHS Standard Terms and Conditions will apply to the continuation award unless otherwise specified in the terms and conditions of the continuation award. The United States has the right to seek judicial enforcement of these terms and conditions.

All legislation and digital resources are referenced with no digital links. These FY 2024 DHS Standard Terms and Conditions are maintained on the DHS website at https://www.dhs.gov/publication/fy15-dhs- standard-terms-and-conditions.

A. Assurances, Administrative Requirements, Cost Principles, Representations, and Certifications

I. Recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non- Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the federal awarding agency.

B. General Acknowledgements and Assurances Recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located at 2 C.F.R. Part 200 and adopted by DHS at 2 C.F.R. § 3002.10.

All recipients and subrecipients must acknowledge and agree to provide DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337.

I. Recipients must cooperate with any DHS compliance reviews or compliance investigations.

II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities and personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or federal awarding agency program guidance.

V. Recipients must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receiving the Notice of Award for the first award under which this term applies. Recipients of multiple federal awards from DHS should only submit one completed tool for their organization, not per federal award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active federal award, not every time a federal award is made. Recipients must submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in these DHS Standard Terms and

Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool. DHS Civil Rights Evaluation Tool | Homeland Security

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension to the 30-day deadline if the recipient identifies steps and a timeline for completing the tool. Recipients must request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

C. Standard Terms & Conditions

I. Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal award funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal award funds.

II. Activities Conducted Abroad

Recipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.

III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (codified as amended at 42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

V. Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) as part of carrying out the scope of work under a federal award are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

VI. Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

FY 2024 DHS STANDARD TERMS AND CONDITIONS

VII. Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284 (codified as amended at 42 U.S.C. § 3601 *et seq.*) which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection. therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex, as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

VIII. Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.

IX. Debarment and Suspension

Recipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit recipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

X. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

XI. Duplicative Costs

Recipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior budget period. (See 2 C.F.R. § 200.403(f)). However, recipients may shift costs that are allowable under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal financial assistance award terms and conditions.

XII. Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (codified as amended at 20 U.S.C. § 1681 *et seq.*), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17. Recipients of an award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 19.

FY 2024 DHS STANDARD TERMS AND CONDITIONS

XIII. E.O. 14074 – Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety

Recipient State, Tribal, local, or territorial law enforcement agencies must comply with the requirements of section 12(c) of E.O. 14074. Recipient State, Tribal, local, or territorial law enforcement agencies are also encouraged to adopt and enforce policies consistent with E.O. 14074 to support safe and effective policing.

XIV. Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 *et seq.*), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

XV. False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729-3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

XVI. Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

XVII. Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of E.O. 13513.

XVIII. Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: Certificated Air Carriers List | US Department of Transportation, https://www.transportation.gov/policy/aviation-policy/certificated-air-carriers-list)for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

XIX. Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal award funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a.

XX. John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. The statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

FY 2024 DHS STANDARD TERMS AND CONDITIONS

XXI. Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

XXII. Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds provided under a federal award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).

XXIII. National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq.*) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

XXIV. Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statues, regulations, and guidance governing the participations of faith- based organizations in individual DHS programs.

XXV. Non-Supplanting Requirement

Recipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.

XXVI. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated by reference. All recipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the Award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.

FY 2024 DHS STANDARD TERMS AND CONDITIONS

XXVII. Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 *et seq*. and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.

XXVIII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962) and 2 C.F.R. § 200.323. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

XXIX. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXX. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of the federal award, then the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated by reference.

XXXI. Reporting Subawards and Executive Compensation

For federal awards that equal or exceed $30,000, recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation set forth at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated by reference.

XXXII. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

(a) When the Federal agency has determined that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

(1) applying the domestic content procurement preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

Definitions

The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.

XXXIII. SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The SAFECOM Guidance is updated annually and can be found at Funding and Sustainment | CISA.

XXXIV. Terrorist Financing

Recipients must comply with E.O. 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the E.O. and laws.

XXXV. Trafficking Victims Protection Act of 2000 (TVPA)

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 106 (codified as amended at 22 U.S.C. § 7104). The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated by reference.

XXXVI. Universal Identifier and System of Award Management

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated reference.

XXXVII. USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

XXXVIII. Use of DHS Seal, Logo and Flags

Recipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

XXXIX. Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections at 10 U.S.C § 470141 U.S.C. § 4712.

Attachment 5

Required Sub-Recipient File Documentation

Sub-grantee or sub-recipient must meet the financial administration requirements in 2 C.F.R Part 200 and must maintain a file for each Homeland security grant award. The files must be available for review by the North Carolina Division of Emergency Management – Homeland Security Branch Staff for site visits, project closeout and future audits.

Sub-grantee or sub-recipient must include appropriate documentation in the file, including but not limited to the following documents:

- Grant Award and Memorandum of Agreement/ Memorandum of Understanding and Supporting Appendices
- Completed appropriate cost report forms with invoices and proof(s) of payment
- Audit Findings and Corrective Action Plans
- Equipment Inventory records with photo documentation of labeling

Non-Federal entities are required to maintain and retain the following:

- Backup documentation, such as bids and quotes.
- Cost/price analyses on file for review by Federal personnel, if applicable.
- Other documents required by Federal regulations applicable at the time a grant is awarded to a recipient.

FEMA requires that non-Federal entities maintain the following documentation for federally funded purchases:

- Specifications
- Solicitations
- Competitive quotes or proposals
- Basis for selection decisions
- Purchase orders
- Contracts
- Invoices
- Cancelled checks

Non-Federal entities should keep detailed records of all transactions involving the grant. FEMA may at any time request copies of purchasing documentation along with copies of cancelled checks for verification.
Non-Federal entities who fail to fully document all purchases will find their expenditures questioned and subsequently disallowed.

Attachment 6

NC Department of Public Safety
EMERGENCY MANAGEMENT

Roy Cooper, Governor

Eddie M. Buffaloe Jr., Secretary
William C. Ray, Director

MEMORANDUM

TO: Derek Dorazio

FROM: Greg Hauser

DATE: August 1, 2024

SUBJECT: Requirements for Grant Funded Communications Equipment

To align communications technologies with current statewide communications plans, systems, networks, strategies and emerging technologies, the North Carolina State Interoperability Executive Committee (SIEC) requires that purchases made with U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) federal financial assistance meet requirements. These sources of funding include the Emergency Management Performance Grant (EMPG), Emergency Management Performance Supplemental Grant (EMPG-S), Emergency Management Performance American Rescue Plan Act Grant (EMPG-ARPA) and the Homeland Security Grant (HSGP). The below requirements must also be met for those purchases made with NCEM Capacity Building Competitive Grant (CBCG) and State and Local Cybersecurity Grant Program (SLCGP) funds. Included are the equipment identifiers as listed on the FEMA Authorized Equipment List (AEL) that are allowable, where applicable.

700/800 MHz Radio purchases (06CP-01-BASE, 06CP-01-MOBL, 06CP-01-PORT)

Radio purchases can be classified into three parts: portable (handheld), mobile (vehicular/desktop) or console/consolette (software/infrastructure). These radios must appear on the current VIPER Approved Radio List, and have the following capabilities, i.e., the feature must be purchased and present in the radio:

- Capable of operating on a P25 radio system/network
- Capable of operating in a P25 Phase II (TDMA) environment
- Capable of passing and receiving AES/256-bit encryption
- Capable of utilizing more than one encryption key

Further information is available at:
https://www.dhs.gov/science-and-technology/approved-grant-eligible-equipment

All radios purchased using the above noted grant sources shall have the VIPER statewide required template in them. This template was approved by the SIEC on June 6th, 2021.

1636 Gold Star Drive Raleigh, NC 27607 | 4236 Mail Service Center Raleigh, NC 27699-4236
Phone: 919-825-2500 Fax: 919-825-2685 | www.ncdps.gov www.readync.gov
An Equal Opportunity Employer

If a grant recipient chooses to operate in an encrypted environment, all radios purchased using the above noted grant sources shall follow the SIEC Interoperable Radio Encryption Standard Operating Guideline approved on May 28th, 2020.

Non 700/800 MHz radio purchases (06CP-01-BASE, 06CP-01-MOBL, 06CP-01-PORT)

Non 700/800 MHz radios (UHF/VHF) are allowable provided they are included on the below list of grant eligible equipment.
https://www.dhs.gov/science-and-technology/approved-grant-eligible-equipment

If a radio purchase is requested for other, non-P25 networks the following are **NOT** eligible:

- Wouxun handheld or mobile radios (multiband)
- Baofeng handheld or mobile radios (multiband)
- Any other wireless device outlined in the Federal Communication Commission's (FCC) "List of equipment and services covered in section 2 of the Secure Networks Act" This list is a result of the passage of *H.R.5515 - John S. McCain National Defense Authorization Act in 2019.* Further information can be found at https://www.fcc.gov/supplychain/coveredlist .

Public Alerting Software Platforms (04AP-09-ALRT)

Public alerting software platforms are a means of alerting citizens of emergencies. There are two distinct functions that a software platform provides. There is a citizen sign up option for notifications and a wireless emergency alerting (WEA) function. The WEA function alerts smartphones and devices based on geographic location through the Integrated Public Alert and Warning System (IPAWS). Please make sure the purchasing agency is a North Carolina/FEMA approved public alerting authority (PAA) or is in the process of obtaining the PAA status **If purchasing or subscribing to software, it must be identified on the attached *"List of Alert Software Providers (AOSP) That Have Successfully Demonstrated Their IPAWS Capabilities."***

Voice Gateway Devices (06CP-02-BRDG)

Gateway devices are used to bridge disparate voice sources together to create a single line of communications. This can include radio, voice over IP, smart device application, etc. These devices are **NOT** allowed to be permanently mounted at Public Safety Answering Points (PSAP), tower sites or network rooms to permanently patch disparate radio systems. Written permission **must** be obtained from all system administrators authorizing the intended use of the gateway device on the system.

Items not included or referenced in this document must be clearly identified to ensure that interoperability, physical security, and cybersecurity priorities are followed. Examples include, but are not limited to:

- Smart device applications that integrate into first responder communications networks
- Infrastructure equipment that allows for the integration of smart device applications
- Equipment that uses shared radio frequency (RF) spectrum to create mesh networks

Questions can be directed to the SIEC via the NCEM Communications Branch for passage to the SIEC Chair and Vice-Chair.

WR/gh

Attachment 7

Subrecipient Monitoring

Subrecipient is subject to monitoring by Recipient in accordance with the provisions of 2 CFR 200.332.

A. Recipient may assess Subrecipient's risk of noncompliance with applicable laws, rules, regulations, policies and guidelines, and with the terms and conditions of this award, per 2 CFR 200.332(b).

1. This includes the application and award process when Subrecipient was selected to receive this award, and it continues throughout the life of the award, such as ensuring Subrecipient remains eligible to receive funding as specified in **Funding Eligibility Criteria**.

2. Subrecipient's prior experience with other grant awards by/through Recipient may also be included in the risk assessment.

3. Depending on the risk, additional conditions may be imposed on this award at any time per 2 CFR 200.332(c).

4. Subrecipient's activities may be continually monitored as necessary to ensure that this award is used for authorized purposes and in compliance with all applicable laws, rules, regulations, polices and guidelines, per 2 CFR 200.332(d).

B. Monitoring will include Recipient reviewing all financial, performance and/or or cost reports - including all requests for reimbursement (and associated invoices and proof of payment) - submitted by Subrecipient as required in this MOA.

1. Recipient will also review all other documentation required to be submitted by Subrecipient in this MOA, including equipment lists and inventories, after action reports for exercises, training course rosters and descriptions, all contracts and subcontracts executed by Subrecipient with funds from this award, and all project closeout documents.

2. All documentation required to be retained by Subrecipient in this MOA, including all required Subrecipient file documentation per 2 CFR 200.334, is also subject to review and monitoring by Recipient (see **File Retention**).

3. Any/all reports and audits required to be filed under federal and state law as specified in **State of North Carolina Reporting Requirements** and **Audit Requirements** are also subject to review and monitoring by Recipient.

C. Any required documentation, reports or requests for reimbursement submitted late, incompletely, inaccurately and/or with discrepancies may elevate the risk status of Subrecipient and cause additonal monitoring, imposition of additional award conditions, return of funds, negative determinations for future awards, and/or any other remedy for noncompliance specified in 2 CFR 200.339 (see **Compliance**).

1. This includes any/all reports and audits required to be filed under federal and state law as specified in **State of North Carolina Reporting Requirements** and **Audit Requirements.**

2. Failure to timely file complete and accurate audits and reports required under federal and state law may subject Subrecipient to additional monitoring and the full range of remedies for noncompliance specified in **Compliance**.

D. Any findings or corrective actions identified in Subrecipient audits specifically related to this award may elevate the risk status of Subrecipient and cause additonal monitoring, imposition of additional award conditions, return of funds, negative determinations for future awards, and/or any other remedy for noncompliance specified in 2 CFR 200.339 (see **Compliance**).

1. Such audit findings and corrective actions must be appropriately resolved by Subrecipient and are subject to monitoring, follow-up and verification by Recipient.

2. Recipient may issue a Management Decision for applicable audit findings pertaining specifically to this award per 2 CFR 200.332 and 2 CFR 200.521, in addition to any Management Decisions issued by Subrecipient.

E. Depending on the risk, Subrecipient monitoring may include, but is not limited to, the following measures: training and technical assistance, site visits, desk reviews, and audits (in addition to the audits specified in **Audit Requirements**.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Sheriff's Office: Budget Amendment (BNA#006)

Department:	Sheriff's Office
Agenda Title:	Budget Amendment (BNA#006)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_006_Budgeting_Edward_Byrne_Memorial_Justice_Grant.pdf	BNA 006

Cleveland County
NORTH CAROLINA

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 006	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/21/2026	**Requester Email:** tonya.brittain@clevelandcountync.gov	**Requesting Department: Law enforecement Grant**

Account #	Account Description	Increase	Decrease
"010-438-4-310-00"	FEDERAL GOVT GRANTS	$15,461.00	
"010-438-5-700-00"	GRANTS	$15,461.00	

Reason for Request: Budget FY25 Edward Byrne Memorial Justice Grant (JAG) funds to cover purchase of approximately 5 AED's for CCSO

Total Amount Revenue Increase and Expense Increase: $15,461.00
Must be on 8/4/26 Commissioner meeting to meet expenditure deadline of grant funds. Wtg on official award notification, but have received funding allocation info. However, we will not receive the official notice in time for this meeting but could not wait until the Sept meeting to submit BNA to have time to place orders and pay for product by deadline.

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
× Tonya Brittain for Sheriff Norman 07/21/2026	Ian Bishop 07/21/2026	× Tonya Brittain-Interim 07/24/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

BUDGET NEW - ORDINANCE AMENDMENT

BNA # ______________

SUBMITTED TO BOARD OF COUNTY COMMISSIONERS
FOR CONSIDERATION AT MEETING TO BE HELD ON: August 4, 2026

SIGNATURES:
IBrittain - Interim Asst. Fin. Officer
~~Finance Officer~~

Department Manager

FROM: BUDGET OFFICER
THRU: FINANCE OFFICE
FOR DEPT: LAW ENFORCEMENT GRANTS
DATE: 7/21/2026

Account Number	Project Code	Department	Account Name	Increase	Decrease
010.438.4.310.00	16738-AEDS	Law Enforcement Grants	Federal Govt Grants	$ 15,461.00	
010.438.5.700.00	16738-AEDS	Law Enforcement Grants	Grants	$ 15,461.00	

Explanation of Revisions: Budget FY25 Edward Byrne Memorial Justice Grant (JAG) funds to cover purchase approx 5 AED's for CCSO.

THE ABOVE AMENDMENT HAS BEEN APPROVED AND RECORDED IN THE MINUTES OF THE COUNTY COMMISSIONERS' MEETING ON ______________
(Date)

Phyllis Nowlen, Clerk to the Board

RETURN TO FINANCE OFFICE and Forward copy via email to Ian.Bishop@clevelandcountync.gov

cc: Personnel
cc: Purchasing

Batch # ______________
Date: ______________
By: ______________

STAFF REPORT

Date: March 31, 2026
To: Board of Commissioners
From: Melanie Martin, Lieutenant, CCSO
Subject: FY25 Edward Byrne Memorial Justice Assistance Grant Program – Local Solicitation Assistance Listing Number # 16.738

Summary Statement:
Cleveland County has been allocated funding under the Justice Assistance Grant (JAG) Program to assist in local criminal justice/law enforcement initiatives, including the "Jumpstart Saving Lives" initiative of the Cleveland County Sheriff's Office, by addressing efforts to ensure all patrol deputies assigned to patrol division are outfitted with lifesaving equipment, such as Automated External Defibrillators (AEDs).

Review:
The Cleveland County Sheriff's Office will manage this allocation grant for the referenced grant program in the amount of $15,461 and expects to utilize the entire award to procure AEDs.

Pros:

- Provides AEDs to patrol deputies that do not currently have one.
- Addresses the Sheriff's Office's search for supplemental funding for these items, and as part of the "Jumpstart Saving Lives" initiative.
- AEDs are proven to save lives, and many times law enforcement are first on the scene of the emergency.
- The anticipated brand of AEDs to be purchased aligns with the current brand utilized in other patrol vehicles.

Cons:

- Annual maintenance costs

Fiscal Impact: Yes. The Sheriff's Office has budgeted for the difference of the grant award and the total amount for approximately five (5) AEDs. The grant award will significantly offset the overall cost.

Recommendation:
Review the public notice statement provided on the next page.

Action Needed:
No action is required, but Commissioners may review the application if requested.

Attachments: Public Notice Statement

2025 North Carolina Local JAG Allocations

Only jurisdictions listed below in the state are eligible to receive FY 2025 JAG funding directly from BJA, with award amounts determined by the annual formula. Important notes:

1)Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county. A single jurisdiction must serve as the fiscal agent on behalf of the group. BJA will only fund one award for the disparate group. Disparate jurisdictions are responsible for determining individual amounts within the Joint Allocation and for documenting allocations via a memorandum of understanding

2)Jurisdictions eligible for a direct allocation (i.e., not part of a disparate group) are listed alphabetically below the shaded, disparate groupings.

For additional details on eligibility and disparate group requirements, refer to the FY25 JAG notice of funding opportunity (NOFO) and the Frequently Asked Questions here: https://bja.ojp.gov/program/jag/frequently-asked-questions. For additional details regarding the JAG formula and award calculations process, please refer to the JAG Technical report here: https://bjs.ojp.gov/library/publications/justice-assistance-grant-jag-program-2024.

State	Jurisdiction Name	Government Type	Direct Allocation	Joint Allocation
NC	ALAMANCE County	County	$15,182	
NC	BURLINGTON City	Municipal	$41,954	$57,136
NC	BUNCOMBE County	County	$13,845	
NC	ASHEVILLE City	Municipal	$67,053	$80,898
NC	CABARRUS County	County	*	
NC	KANNAPOLIS City	Municipal	$10,642	$10,642
NC	CATAWBA County	County	$13,260	
NC	HICKORY City	Municipal	$20,197	$33,457
NC	CRAVEN County	County	*	
NC	NEW BERN City	Municipal	$11,533	$11,533
NC	CUMBERLAND County	County	$59,002	
NC	FAYETTEVILLE City	Municipal	$166,588	$225,590
NC	DURHAM County	County	*	
NC	DURHAM City	Municipal	$171,408	$171,408
NC	FORSYTH County	County	$22,314	
NC	WINSTON-SALEM City	Municipal	$226,733	$249,047
NC	GASTON County	County	$14,681	
NC	GASTONIA City	Municipal	$57,526	$72,207
NC	GUILFORD County	County	$21,562	
NC	GREENSBORO City	Municipal	$214,698	
NC	HIGH POINT City	Municipal	$49,475	$285,735
NC	HALIFAX County	County	*	
NC	ROANOKE RAPIDS City	Municipal	$10,419	$10,419
NC	IREDELL County	County	$12,731	
NC	STATESVILLE City	Municipal	$24,793	$37,524
NC	LENOIR County	County	*	
NC	KINSTON City	Municipal	$14,570	$14,570
NC	MECKLENBURG County	County	*	

NC	CHARLOTTE City	Municipal	$618,968	$618,968
NC	NASH County	County	*	
NC	ROCKY MOUNT City	Municipal	$40,867	$40,867
NC	NEW HANOVER County	County	$11,338	
NC	WILMINGTON City	Municipal	$53,319	$64,657
NC	ONSLOW County	County	$13,595	
NC	JACKSONVILLE City	Municipal	$20,977	$34,572
NC	PITT County	County	$14,263	
NC	GREENVILLE City	Municipal	$41,257	$55,520
NC	ROCKINGHAM County	County	*	
NC	REIDSVILLE City	Municipal	$10,279	$10,279
NC	ROWAN County	County	$12,341	
NC	SALISBURY City	Municipal	$27,969	$40,310
NC	SCOTLAND County	County	*	
NC	LAURINBURG City	Municipal	$21,227	$21,227
NC	UNION County	County	$15,210	
NC	MONROE City	Municipal	$25,016	$40,226
NC	VANCE County	County	*	
NC	HENDERSON City	Municipal	$21,868	$21,868
NC	WAKE County	County	$19,472	
NC	RALEIGH City	Municipal	$201,800	$221,272
NC	WAYNE County	County	$16,659	
NC	GOLDSBORO City	Municipal	$33,485	$50,144
NC	WILSON County	County	*	
NC	WILSON City	Municipal	$22,147	$22,147
NC	BRUNSWICK County	County	$16,213	
NC	BURKE County	County	$11,979	
NC	CARY City	Municipal	$13,483	
NC	CHEROKEE TRIBAL	Tribal	$14,876	
NC	CLEVELAND County	County	$15,461	
NC	DAVIE County	County	$10,837	
NC	GARNER City	Municipal	$13,790	
NC	HARNETT County	County	$22,230	
NC	HOKE County	County	$27,858	
NC	JOHNSTON County	County	$11,561	
NC	LUMBERTON City	Municipal	$35,853	
NC	RICHMOND County	County	$18,219	
NC	ROBESON County	County	$89,590	
NC	SAMPSON County	County	$10,781	
NC	SHELBY City	Municipal	$16,631	
	Local total		$2,831,585	

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Cooperative Extension: Budget Amendment (BNA#007)

Department:	Cooperative Extension
Agenda Title:	Budget Amendment (BNA#007)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_007_Budgeting_COOP_extension_Donations.pdf	BNA 007

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 007	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/23/2026	**Requester Email:** ian.bishop@clevelandcountync.gov	**Requesting Department: Cooperative Extension**

Account #	Account Description	Increase	Decrease
"010-495-4-991-00"	FUND BALANCE APPROPRIATED	$5,097.00	
"010-495-5-530-97"	CORN GROWERS ASSOC ACTIVY	$4,618.00	
"010-495-5-530-96"	SUMMER FUN ACTIVITIES	$479.00	

Reason for Request: Budget funds for CoOperative Extension Donations. Funds were received in FY26 but not budgeted until FY27

Total Amount Revenue Increase and Expense Increase: $5,097.00

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
	Ian Bishop	Tonya Brittain-Interim 07/23/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

CLEVELAND COUNTY, NORTH CAROLINA
CO-OP EXT RESTRICTED FUNDS RECONILIATION
updated for FY25-sw 8.5.25 befor

SUMMER FUN
010.495.5.530.96 / 010.495.4.510.96

	FY 24/25	FY 25/26	Totals
BUDGETED	**$ 2,500.00**	**$ 1,500.00**	
FY25 CO		$ 3,057.75	
BNA DUPLICATED, IAN TO FIX		$ 2,028.16	
TRANSFERS		$ 1,000.00	
Section II - Revenues			
SUMMER FUN REVENUES	$ 3,514.16	$ 2,715.00	$ 57,679.40
			$ -
Total Revenue	$ 3,514.16	$ 2,715.00	$ 57,679.40
			$ -
Section III - Expenses			$ -
SUMMER FUN EXPENSES	$ 1,814.79	$ 4,525.00	$ 57,201.35
ADJ EXP FM 5.530.90 PY			$ 900.00
			$ -
Total Expenses	$ 1,814.79	$ 4,525.00	$ 56,431.65
			$ -
Section IV - Rev/Exp Difference	$ 1,699.37	$ (1,810.00)	**$ 478.05**

FY25	
$1014.16 received more than budgeted	BNA TO IAN
BNA needed-sw 10.16.25	10.16.25-SW

not been budgeted via BNA to Commissioners. However, more was spent than what has truly been budgeted. The remaining funds available are $478.05 - so only that amount can be budgeted for FY27 and it will need to

CLEVELAND COUNTY, NORTH CAROLINA
CO-OP EXT RESTRICTED FUNDS RECONILIATION

CORN GROWERS
010.495.5.530.97 / 010.495.4.510.97

	FY24/25	FY 25/26	Totals
BUDGETED	**$ 250.00**	**$ 1,500.00**	
BNA DUPLICATED, IAN TO FIX		$ 7,912.72	
Section II - Revenues			
CORN GROWERS REVENUES	$ 250.00	$ 9,200.00	$ 19,350.00
			$ -
Total Revenue	$ 250.00	$ 9,200.00	$ 19,350.00
			$ -
Section III - Expenses			$ -
CORN GROWERS EXPENSES	$ 4,176.80	$ 4,611.96	$ 14,497.40
*Sent funds to state for escrow			$ 235.00
Total Expenses	$ 4,176.80	$ 4,611.96	$ 14,732.40
			$ -
Section IV - Rev/Exp Difference	$ (3,926.80)	$ 4,588.04	$ 4,617.60

*****Note FY23 funds were never budgeted before Commissioners but carryover was done fm FY23 to FY24 for the $3400***
****FY24 initial budget was $3500 and rec'd $5000 so the $1500 needs to be budgeted on BNA to Comissioners.***
****For FY25 there are no funds to be carried over. The $3956.36 need to be budgeted via BNA before any expenses are incurred.***
TB 10/28/24 ***BNA031 12/3/25 was done for this $3956.36***

BNA TO IAN FOR $3956.36
PER TONYA'S NOTES FY25
10.16.25-SW
BUDGETED CO DONE THRU FY24

*****FY26 NOTES*** Orig Rev & Exp Budget $1500- Rec'd $9200 in revenues - leaving $7700 of unbudgeted revenue rec'd in FY26 and roughly $3082.40 being spent of unbudgeted funds at the time. Due to this - and remaining funds @ 6.30.26 a BNA needs to be completed**

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Finance Department: Budget Amendment (BNA#008)

Department:	Finance Department
Agenda Title:	Budget Amendment (BNA#008)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
BNA_008_Budgeting_Additional_CoOp_Extension_Donations.pdf	BNA 008

BUDGET CHANGE FORM

Budget Change Information			
Keystone #:	**BNA#:** 008	**CO#:**	**Date Entered into Keystone:**
Budget Change Type: Amendment (new budget)	**Date Of Request:** 07/23/2026	**Requester Email:**sybil.walker@clevelandcountync.gov	**Requesting Department: Finance**

Account #	Account Description	Increase	Decrease
010-495-4-991-00	Fund Balance Appriopriated	$2,064.00	
010-495-5-530-90	4H Program Enhancements	$2,064.00	

Reason for Request: Budget FY26 donations received in FY26 but not budgeted until FY27.

Total Amount Revenue Increase and Expense Increase: $2,064.00

Signatures

Department Head Signature	Budget Analyst Signature	Finance Officer Signature	County Manager Signature	Business Officer Signature
Tonya Brittain-Interim 07/23/2026	Ian Bishop 07/24/2026	Tonya Brittain-Interim 07/24/2026		

Clerk to the Board

The above amendment has been approved and recorded in the minutes of the County Commissioners' meeting on

CLEVELAND COUNTY, NORTH CAROLINA
CO-OP EXT RESTRICTED FUNDS RECONILIATION

4H ACTIVITIES
010.495.5.530.90 / 010.495.4.510.90

	FY 23/24	FY24/25	FY25/26	Totals	
BUDGETED	**$ 3,000.00**	**$ -**			BNA O24 $4685 DUPLICATED IAN TO FIX
BNA024 FOR FY25 $4685			$ 9,370.00		
Section II - Revenues					
4H ACTIVITIES REVENUES	$ 5,643.00	$ 4,685.00	$ 2,064.00	$ 76,651.89	
Total Revenue	$ 5,643.00	$ 4,685.00	$ 2,064.00	$ 74,587.89	
Section III - Expenses					
4H ACTIVITIES EXPENSES	$ 4,397.62	$ 3,213.57	$ 1,044.96	$ 74,324.75	
ADJ EXP TO 5.530.96 PY				$ (900.00)	notes only/do not include in totals
ADJ EXP s/b CO FUNDED				$ (9,260.00)	notes only/do not include in totals
Total Expenses	$ 4,397.62	$ 3,213.57	$ 1,044.96	$ 64,164.75	
Section IV - Rev/Exp Difference	$ 1,245.38	$ 1,471.43	$ 1,019.04	$ 10,423.14	
				$ 9,996.67	
				$ (2,643.00)	**BNA030 11.12.24**
	FY24 to FY25			**$ 7,353.67**	

FY26 End balance	**$ 10,423.14**	
Less Fds Rec'd FY26-Unbud	**$ (2,064.00)**	will need to be BNA to Commissioners
Total C/O To FY27	**$ 8,359.14**	

FY25
No budget, received $4685
BNA needed-sw 10.16.25

FY26 REVENUES - WILL NEED TO BE BUDGETED AS THEY HAVE NOT BEEN BUDGETED AS OF 7.17.26. TB AS OF 7.17.26 C/O FM FY27 TO FY26 WOULD BE $8359.14 AVAILABLE.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Treasury Management Resolution and Certification

Department:	Finance Department
Agenda Title:	Treasury Management Resolution and Certification
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
Home_Trust_Bank_Corporate_Resolution_080426.pdf	Home Trust Bank Resolution

56-6000288

HomeTrust Bank

RESOLUTION AND CERTIFICATION FOR TREASURY MANAGEMENT SERVICES BY CORPORATION/UNINCORPORATED ASSOCIATION

CORPORATE RESOLUTION

CORPORATION/UNINCORPORATED ASSOCIATION NAME: County of Cleveland
(PRIMARY/LEAD COMPANY NAME): David Cotton

Business Address (Physical): 311 E Marion St, Shelby, NC, 28150

Mailing Address (If Different):

Tax Id Number: 56-6000288 Phone: (704) 484-4800

The undersigned certifies and declares that he or she is the duly elected and qualified Secretary or Assistant Secretary of (hereinafter "Company"), a ☐ corporation, or ☐ unincorporated association, organized and existing under the laws of the State of NC; that (i) the following is a true copy of resolutions (the "Resolutions") adopted by the Board of Directors of the Company at a duly qualified meeting held in accordance with the Bylaws of the Company at which a necessary quorum was present and acting throughout and that (ii) such Resolutions were properly adopted by the Board of Directors of the Company, are in full force and effect and have not been amended, rescinded or otherwise modified:

Resolved that the Company wishes to have accounts and services established with HomeTrust Bank ("Bank") both for itself and (if Company is a corporation) on behalf of various business entities over which the Company, or the principal shareholders of the Company, exercise control.

Further resolved, that the individual listed below is hereby designated as the "Authorized Representative," and is individually authorized to take the following actions for the Company: (i) establish or pledge any Bank account, execute the Bank's Signature Card, Online Banking and Treasury Management Services Master Agreement, Product Schedules, and any other agreements and documents executed in connection with a Bank account or a Bank service (including, without limitation, agreements for wire transfer services, ACH origination services, positive pay services, lockbox services, cash courier services and/or remote deposit capture services), (ii) provide Bank with instructions with regard to Bank services and designate employees or agents to act in the name and on behalf of Company with regard to Bank accounts and/or Bank services (including but not limited to designating one or more persons authorized to initiate, amend, cancel, confirm, or verify the authenticity of instructions to Bank regarding Bank services, and/or delegating such designation authority), and (iii) make amendments to the Signature Card, Online Banking and Treasury Management Services Master Agreement, Product Schedules, and/or any other agreements or any exhibit thereto, associated with a Bank account and/or Bank services, including, without limitation, establishing and amending the list of Authorized Representatives and the list of authorized signers for such account.

Authorized Representative

Name, Title/Position: David Cotton, County Manager

Further resolved, that the signature(s) on this resolution is/are conclusive evidence of the authority of the above-designated Authorized Representative to act on behalf of the Company. Any Authorized Representative, so long as they act in a representative capacity as an Authorized Representative of the Company, is authorized to make any and all other contracts, agreements, stipulations

56-6000288

HomeTrust Bank

and orders which they may deem advisable for the effective exercise of the powers induced on this page, from time to time with Bank, subject to any restrictions on this resolution or otherwise agreed to in writing.

Further resolved, that any deposit account opened with Bank by an Authorized Representative shall be governed by the Bank's Deposit Account Terms and Conditions and Fee Schedule(s), as amended from time to time.

Further resolved, that all transactions, if any, with respect to any deposits or withdrawals by or on behalf of the Company with Bank prior to the execution of this resolution are hereby ratified, approved and confirmed.

Further resolved, that this resolution shall remain in full force and effect, and Bank shall be entitled to rely conclusively, without any further investigation or inquiry, on this resolution until Bank actually receives written notice to the contrary from a duly authorized officer of Company and has reasonable time thereafter to act, and any such notice shall not affect any action or inaction taken or not taken by Bank prior thereto. Any and all prior resolutions adopted by the Board of Directors and certified to Bank as governing the operation of this corporation's account(s), are in full force and effect, until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to Bank, establishing the authority for the changes.

Effect on Previous Resolution. This resolution supersedes the Corporate Resolution and Certification for Treasury Management Services dated 4/5/2022 . If not completed, all Corporate Resolutions and Certifications for Treasury Management Services remain in effect.

Certification: I certify that: (1) I am the Secretary of the Company (2) the above is a true and correct copy of the resolution adopted by the Directors of the Company at a meeting held on , 20 , (3) the Board of Directors of the Company has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions herein and to confer the powers granted above to the persons named who have full power and lawful authority to exercise the same, and (4) these resolutions remain in effect and have not been modified.

Executed on (date) at (city) , (state) .

Secretary's Signature:

Print Secretary's Name: David Cotton

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Firearms Transfer Funds Resolution

Department:	Sheriff's Office
Agenda Title:	Firearms Transfer Funds Resolution
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
Sheriff_s_Office_Firearm_Transfer_Funds.pdf	Staff Report
Resolution_Authorizing_Transfer_of_Funds__Sheriffs_Office.pdf	Transfer Funds Resolution

Office of the Sheriff

SHERIFF
ALAN NORMAN

P.O. BOX 1508
SHELBY, N.C. 28151-1508

704-484-4888
FAX 704-484-4856

MEMORANDUM:

TO: David Cotton, County Manager

FROM: Alan Norman, Sheriff of Cleveland County

DATE: July 7, 2026

SUBJECT: Firearms transfer funds

This memorandum serves to inform you of the planned transfer and sale of agency-issued firearms to employees and to request authorization for the use of the proceeds generated from these sales.

American Tactical will facilitate the transfer of firearms from the ownership of CCSO to individual employees. As the Federal Firearms License (FFL) holder, American Tactical will complete all required paperwork, and each employee will be responsible for a $10 transfer fee paid directly to American Tactical.

Employees electing to purchase their assigned firearm will remit payment to CCSO in the amount of $325 for a Gen 4 handgun or $350 for a Gen 5 handgun.

CCSO respectfully requests authorization to allocate the funds generated from these sales toward the purchase of equipment such as new rifles, gas masks, and compact handguns for investigators. All equipment will be procured through Dana Safety Supply, the state-contracted vendor for these items.

This request includes the ability to budget and utilize any funds, ensuring all proceeds are applied toward the intended equipment purchases.

The purchase of new rifles using these funds will allow CCSO to upgrade aging equipment without utilizing existing budgeted funds. Many of the currently issued rifles have been in service for approximately 14 years, making replacements necessary to maintain operational effectiveness and officer safety.

CCSO recently purchased gas masks sufficient to equip nearly all patrol personnel. Due to promotions and transfers, some masks have moved with personnel into different assignments. The purchase of more gas masks will ensure all remaining patrol deputies and some investigators are properly outfitted.

Your consideration and approval of this request are respectfully requested.

AN/tb

Resolution Authorizing the Declaration of Sheriff's Office Firearms as Surplus and Authorizing Sale pursuant to North Carolina Gen. Stat. §17F-20(b)

WHEREAS, the Cleveland County Sheriff's Office is in the process of replacing the duty weapons for active officers, replacing Glock 17 Gen 4 and Gen 5 with Sig Sauer P320;

WHEREAS, North Carolina Gen. Stat. §17F-20(b) provides that "active members of . . . county law enforcement agencies, upon the change of type of weapons, may purchase the weapon they wore or carried prior to the change at a price equal to the average yield to the . . . county from the sale of similar weapons during the preceding year."

WHEREAS, the Cleveland County Sheriff wishes to use the proceeds of these sales to purchase new equipment, such as new rifles, gas masks, and compact handguns; and

WHEREAS, this will allow the Cleveland County Sheriff to replace aging equipment without using existing funds or budget.

THEREFORE, THE CLEVELAND COUNTY BOARD OF COMMISSIONERS RESOLVES THAT:

1. The Cleveland County Sheriff is hereby authorized to surplus and sell any firearm that has been replaced by a new type of firearm to the Deputy who carried said firearm, based on the price the County has received for that type of firearm this year as follows:
   a. Glock Gen 4 ....$325.00
   b. Glock Gen 5 ....$350.00

2. Firearms not purchased by the Deputy who carried said firearms may be declared surplus and sold pursuant to North Carolina law to any other Deputy at the same cost listed above or retained as inventory in the discretion of the Cleveland County Sheriff.

3. Proceeds from the sale of these firearms shall be reported as income to the Cleveland County Sheriff's Office and categorized in a Budget Amendment to be allocated for the purchase of new equipment.

This the _____ day of August 2026

____
Kevin Gordon
Chairman, Board of Commissioners

ATTESTED TO BY:

____
Phyllis Nowlen
Clerk to the Board

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Spangler Branch Library Addition Project

Department: Legal Department

Agenda Title: Spangler Branch Library Addition Project

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description
Spangler_Library_Staff_Report.pdf	Spangler Library Staff Report
Spangler_Library_USDA_LOC.pdf	Spangler Library USDA LOC
Spangler_Library_Schematic_Proposal.pdf	Spangler Library Schematic Proposal
Spangler_Library_Proposed_Resolution.pdf	Spangler Library Proposed Resolution
Spangler_Library_Proposed_AIA_Contract.pdf	Spangler Library Proposed AIA Contract

Cleveland County
NORTH CAROLINA

LEGAL DEPARTMENT
PO BOX 1210
SHELBY, NC 28151

STAFF REPORT

Date: July 28, 2026
From: B. Logan Roberts, Staff Attorney
Emily Sisk, Director of Grants
Blake Myers, Facilities Project Manager
To: Board of Commissioners
Re: Spangler Branch Library Addition Project

Summary:

Cleveland County has been allocated funding under the US Department of Agriculture, Rural Development, Community Facilities Loans & Grants Program (AL# 10.766), in the amount of $750,000. to provide a portion of the funding necessary to provide improvements to the Spangler Branch Library located at 112 Piedmont Drive in the Town of Lawndale. Cleveland County is required to provide an addition $250,000.00 and has obtained funding for its portion of the project from NC OSBM Direct Grant (ID# 201510) in the amount of $254,691.59. Cleveland County issued three Request for Qualifications, and Beam Construction was the final Design/Builder selected.

Review:

The Spangler Branch Library is owned by the Town of Lawndale, but has been leased to Cleveland County since 2005, as a component of the Cleveland County Library System. The lease is in its third, ten-year term. Cleveland County Government is the applicant awardee and will manage this allocation grant for the referenced grant program in the amount of $750,000 and expects to utilize the entire award for a procurement contract to improve the Spangler Branch Library by adding an addition of approximately 24’7” wide by 34’8”, that is to be located on the East side of the existing building and include a meeting space, restroom, storage, and kitchenette. Improvements will also be made to the existing structure in the form of air and energy efficiency measures as well as ensure aesthetics carry throughout the entire structure (e.g. paint).

County Staff have reviewed the Schematic Proposal and prepared a Design-Builder contract for Board Review and Approval.

Attachments:

- Spangler Library Schematic Proposal
- Proposed AIA Contract
- Proposed Resolution

Action Requested:

To adopt a resolution authorizing the County Manager to enter into the Proposed Contract with Beam Construction and to sign all required Federal forms for the US Department of Agriculture Grant.

United States Department of Agriculture

Rural Development

Shelby Area Office

844 Wallace Grove Drive, Shelby, NC 28150

Voice 704.284.5771

08/04/2026

Cleveland County
Spangler Branch Library Addition Project
311 East Marion Street
Shelby, NC 28150

Subject: Letter of Conditions for a Community Facilities Grant (Real Estate Acquisition/Improvements only)

This letter, with attachments, establishes conditions that must be understood and agreed to by the applicant before further consideration may be given to the application for assistance under the Community Facilities (CF) program for a:

☒ Congressionally Directed Spending (CDS)/Community Project Funding (CPF) grant
☐ Disaster Assistance Funding (DAF) grant
☐ Persistent Poverty grant
☐ Regular grant

PROJECT CHANGES AND APPROVAL REQUIREMENTS:
Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant (including significant changes in the applicant's financial condition, operation, organizational structure, or executive leadership) must be reported to and approved by USDA Rural Development (RD) by written amendment to this letter. Any change not authorized by RD will result in the application process being discontinued.

FUNDS AND DISBURSEMENT:
- This letter does not constitute grant approval or representation that funds are available. The application will be processed based on an RD grant not to exceed **$750,000.**
- The applicant understands and agrees that no project funds will be expended, or contracts issued for construction activities, until all funds necessary for the successful construction and development of the project are secured.
- The Agency will not disburse funds for construction or renovation activities until the applicant has secured all funds to complete the project.
- Any changes in funding sources following obligation of Agency funds must be reported to the processing official.

OTHER IMPORTANT TOPICS:

- Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. If actual project costs exceed the project cost estimates, an additional contribution by the applicant may be necessary.
- In addition to this letter of conditions (LOC) and Sections I-III, the applicant must fully comply with all requirements on Form RD 3570-3, "Community Facilities Grant Agreement" and the USDA General Grant Terms and Conditions.
- The Agency reserves the right to cancel funds if the applicant does not fully comply with all requirements as presented or subsequently modified, as needed.

FORMS:
All Rural Development forms are located on the USDA forms site, while other grant related forms, such as Standard Forms (SF), can be found on Grants.gov.

CRITICAL TIMELINES:

- **10 DAYS –** Within the next 10 days, review, complete, and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," and Form RD 1940-1, "Request for Obligation of Funds". The execution of these and all other documents required by RD must be authorized by appropriate resolutions of the applicant's governing body.
- **ONE YEAR –** For construction projects, Section I of the attached conditions must be met within one year and completed prior to grant closing or before construction begins, whichever occurs first. In the event the project has not advanced to the point of construction within one year, RD reserves the right to discontinue the processing of the application.
- **ONE YEAR –** If the recipient does not fulfill the conditions outlined in the LOC within one year, RD will require the recipient to notify the Agency of their intent to complete the project, after which the Agency will determine whether the LOC may be extended.
- **FIVE YEARS –** If grant funds are not used within five years of obligation, they will be canceled in accordance with 31 U.S. Code 1552. For CDS/CPF grants, funds are not subject to these limitations; however, they remain subject to cancelation in accordance with 31 U.S. Code 1555.

GRANT OBLIGATION:
The following documents which must be executed prior to obligation:

- Form SF-LLL, "Disclosure Form to Report Lobbying," if applicable
- Form RD 400-4, "Assurance Agreement," (revised 06-06-25)

The grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds," is fully executed by all parties.

PROJECT PURPOSE:

The new library addition will add 750 sq. ft. of new meeting space and restroom, storage, and kitchenette improvements. The facility will be rehabilitated to ensure proper air and energy efficiency measures as well as ensure the aesthetics throughout the entire structure to eliminate current accessibility issues.

PROJECT BUDGET:
Based on Standard Form 424, "Application for Federal Assistance," the project cost and funding will be as follows:

Project cost	**RD Grant**	**Applicant Contribution**	**Other Funds**	**Total Amount**
Administrative		$127,590		
Land, structures, rights-of-way, appraisals, etc.				
Architectural and engineering fees		$69,667		
Project inspection fees				
Site work	$55,079			
Demolition and removal				
Construction	$526,392			
Equipment	$20,687			
Miscellaneous				
Subtotal				
Contingencies	$39,809			
Test & Inspections	$97,467	$47,980		
Legal	$10,566			
TOTAL PROJECT COSTS	$750,000	$245,237	$0	$995,237

SOURCE OF FUNDS:

Title	Amount
Applicant contribution	$245,237
RD grant	$750,000
Other	$0
Total	$995,237

If you have any questions, feel free to contact this office.

Sincerely,

Joshua J. Carswell
Community Programs Specialist

cc: Community Programs Director, Rural Development

ATTACHMENT TO LETTER OF CONDITIONS

SECTION I. CONDITIONS TO BE SATISFIED PRIOR TO GRANT CLOSING OR BEFORE CONSTRUCTION BEGINS, WHICHEVER OCCURS FIRST

1. **Evidence of Other Project Funding [2 CFR 200.306]**

The applicant will provide evidence that funds from other sources will be made available for the project cost in the amount of **$245,237.** This evidence should include a copy of the loan/grant award that addresses how funds will be disbursed. The Agency will not disburse funds until all project funding sources have been secured. The applicant may request an exception if this requirement impedes the applicant's ability to carry out the project specified in the applicable appropriations bill.

The applicant's share of project funds will be treated as the first funds spent (except when appropriate exceptions are necessary) and must be deposited in its project account before construction is started. Evidence of this deposit will be required unless express written exception is approved by the Agency. Agency funds will not be used to pre-finance funds committed to the project from other sources.

2. **Grant Security Requirements**
   - 2.1. All applicants will execute Form RD 3570-3, "Community Facilities Grant Agreement" before grant funds are disbursed.
   - 2.2. For projects to improve real estate:
     - 2.2.1. Prior to any disbursement of funds, a Notice of Federal Interest (NOFI) must be recorded in the official real property records for the jurisdiction where the facility is or will be located. The applicant must provide evidence of the recording. Federal interest cannot be defeated by a grantee's failure to file a NOFI. (Include this condition for Tribes with recording offices.)
     - 2.2.2. The grantee understands that any property and equipment improved with federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR Part 200 as adopted by RD through 2 CFR part 400 currently in effect and subject to future modifications.
     - 2.2.3. The grantee understands that any sale or transfer of property is subject to the United States Government's interest in the market value, proportional to its participation in the project, as outlined in 2 CFR Part 200 as adopted by RD through 2 CFR Part 400 currently in effect and subject to future modifications.
     - 2.2.4. In accordance with 2 CFR 200.330, the grantee understands that it must submit regular reports on the status of real property in which the federal government retains an interest. Reports shall be submitted annually for the first three years of the award and every five years thereafter on SF-429 Real Property Status Report, or similar format.

3. **Applicable Federal Statutes**

3.1. Grantees are responsible to execute a Civil Rights Assurance Agreement with the Agency-Form RD 400-4 (Rev. 06-25).

3.2. The nondiscrimination poster, "And Justice for All," (provided by the Agency) must be displayed at the grant funded facility(ies) and/or office of any grantee.
3.3. You are required to post a copy of the Non-Discrimination Statement (shown below) in your office and include it in full in all materials produced for public information, public education, or public distribution both print and non-print:

Non-Discrimination Statement:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

3.4. **Controlled Substances Act:** Even though state law may allow some activities, as a recipient of federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the processing official who will contact the Office of General Counsel, as appropriate.

4. **Environmental Reviews:** The project as proposed has been evaluated to be consistent with the National Environmental Policy Act (NEPA) and 7 CFR 1b. Other federal, state, tribal, and local laws, regulations and/or permits may also apply or be required. If environmental issues arise at any stage of project development, including construction, that require mitigation measures, RD applicants must promptly notify RD and comply with all required mitigation actions. Failure to implement required mitigation measures may result in disqualification from Agency funding. All mitigation measures identified or developed during the NEPA environmental process must be implemented. If the project or any of its components deviates from the originally approved plan, additional environmental review may be necessary.

5. **Procurement:** All procurement transactions related to this project – whether conducted through negotiation or sealed bids, regardless of dollar amount – must be carried out in a manner that ensures maximum open and free competition and complies with 7 CFR

1942.18 (j)(2) and 2 CFR 200 [2 CFR 200.317 through 2 CFR 200.327] and other applicable regulations.

6. **Written agreements for professional services requiring RD approval (if applicable):**
   6.1. The bond counsel services agreement
   6.2. The legal service agreement
   6.3. Agreement for architectural services
   6.4. Design/build/alternative construction method
   6.5. Design/build/alternative construction method – agreement for project manager services
   6.6. Management agreements meeting the minimum requirements of 7 CFR 1942-A, Guide 24

7. **Electronic Funds Transfer:** In accordance with Executive Order 14247, "Modernizing Payments To and From America's Bank Account", all grant funds will be transferred to grantees via Electronic Funds Transfer/Automated Clearinghouse Systems (EFT/ACH). Normal transfers will be ACH, with money being placed in the grantees account two business days after the RD processing office approves the pay request. The applicant must submit the Electronic Funds Transfer Form containing the banking (ACH) information to the RD Servicing Office at least 45 days prior to the date of grant closing. Failure to do so could delay grant closing.

8. **Suspension and Debarment Screening:** The applicant and its principals must not be debarred, suspended, or otherwise excluded from participation in USDA programs in accordance with 2 CFR part 180 and 2 CFR part 417. Agency staff will screen the entity and its principals for suspension and debarment using the Do Not Pay Portal. Your organization will need to provide information about its principals.
   8.1. Principal: An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
   8.2. A consultant or other person, whether employed by the participant or paid with federal funds, who
      - Can handle federal funds;
      - Can influence or control the use of those funds; or occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

Section II. Construction Project Requirements

1. **Insurance and bonding requirements**: The applicant must provide proof of adequate insurance and fidelity bond coverage no later than the grant closing date or start of construction, whichever occurs first. Coverage must comply with RD regulations and be maintained for the entire duration of the grant. Ensuring adequate insurance and fidelity bond coverage is the applicant's responsibility, not RD's. The applicant will have fidelity bond coverage until the grant is fully disbursed and closed out. Applicants are encouraged to review coverage amounts and deductible provisions with their attorney, consulting architect, and/or insurance provider(s).

   Proof of the following is required:
   1.1. Fidelity bond
   1.2. Property Insurance: Fire and extended coverage will be required on all above-ground structures, including applicant-owned equipment and machinery housed therein
   1.3. General liability and vehicular coverage must be maintained
   1.4. Workers' Compensation Insurance: The applicant will be required to carry workers' compensation insurance for all employees in accordance with state laws
   1.5. National Flood Insurance (if applicable): If the project involves construction in designated special flood or mudslide prone areas, you must purchase a flood insurance policy at the time of closing
   1.6. Earthquake Insurance (if applicable): If the project involves construction in earthquake prone areas, you must purchase an earthquake insurance policy at the time of closing

2. **Land and rights-of-way (if applicable):** The applicant must present satisfactory evidence that they have obtained, or can obtain, any and all lands, rights-of-way, easements, permits and franchises which are required by the architectural plan. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation and Real Property Acquisition Act. The following forms may be used for these purposes:
   - Form RD 442-20, "Right-of-Way Easement"
   - Form RD 442-21, "Right-of-Way Certificate" (with map attached)
   - Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way"

3. **Permits (if applicable):** All permits required by federal, state, and local agencies must be obtained and submitted to RD prior to bidding. For Design/Build Projects/Alternative Method, all required permits from federal, state, and local agencies must be obtained, and proof provided to RD prior to the start of the construction of the project.

4. **Architectural and construction:** RD must review and approve all agreements, and any modifications to agreements, for professional planning and design services. The American Institute of Architects (AIA) document "Standard Form of Agreement Between Owner and Architect," may be used when appropriate, or the applicant may use other Agency approved forms of agreement. All construction must be completed under contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942.9, 1942.18, as well as any applicable state laws and requirements imposed by county, state, or federal agencies.

   4.1. The following must be reviewed and approved by RD in the sequence indicated:
      4.1.1. Agreement for architectural services
      4.1.2. Final plans and specifications for the project

4.1.3. Draft construction bid documents, prior to going out to bid
4.1.4. Bid award information
4.1.5. Executed contract documents - contracts are required to be an AIA contract, RD Guide 17, or other proposed contract
- For non-AIA – all contracts will include RD Guides 18, Guide 19
- For AIA – all contracts will include RD Guide 27

4.1.6. Plans and specifications which have been reviewed and approved by all applicable regulatory and other required agencies

4.2. An RD representative will attend the preconstruction conference for this project. These conferences must occur before the Agency concurs in issuing the Notice to Proceed to the contractors. The applicant's architect will conduct the conference and document the discussions and agreements. The conference will address all applicable items listed in Form RD 1924-16, Record of Preconstruction Conference. Documentation must be completed using RD Form 1924-16 or an approved alternative. Meeting minutes must be signed by all attendees, and a copy provided to RD.

4.3. All contracts for professional and technical services entered into by the applicant for the project - including but not limited to, agreements for owner's representative, legal services, project management, inspection, and management agreements - must be reviewed and approved by both the Agency and the Office of General Counsel. Each contract must comply with the provisions outlined in 7 CFR 1942.18(n). If a contract does not meet the Agency requirements, it must be amended to incorporate those requirements; otherwise, the Agency will not accept the contract.

4.4. **Design-Build/Alternative Contracting Method projects:** If the applicant proposes a Design-Build/Alternative Contracting Method (design/build), the procurement method must be approved by the Agency's National Office. To obtain concurrence, the applicant must submit all required information using the Design/Build/Alternative Contracting Method Concurrence Checklist.

4.4.1. The applicant must retain a qualified construction project manager who is independent of the contractor/design-build firm. Credentials of the candidate must be submitted to the Agency for evaluation and concurrence prior to executing an agreement.
4.4.2. All development will be completed by contract. The planning, bidding, contracting, and construction must comply with 7 CFR 1942, Subpart A, as well as any applicable state laws or requirements imposed by county, state, or federal agencies.
4.4.3. If approved for the Design-Build/Alternative Contracting Method procurement method, the applicant's construction budget will be noted in the request for proposal documents to set parameters for a Guaranteed Maximum Price (GMP) agreement to be awarded through an open and free solicitation process. The GMP will be established no later than at the completion of the design development stage.
4.4.4. The following must be reviewed and approved by RD in the sequence indicated:

4.4.4.1 Agreement for Architectural Services/Agreement for Project Manager Design-Build Procurement Method—Checklist Items

4.4.4.2 Request for Qualifications (RFQ)
4.4.4.3 RFQ short list
4.4.4.4 Request for Proposals (RFP)
4.4.4.5 Recommendation of award
4.4.4.6 Executed contract documents – contracts must be either an AIA contract, RD Guide 17, or another contract approved by the Agency
- Non-AIA contracts will include RD Guides 18, Guide 19
- AIA contracts will include RD Guide 27

4.4.4.7 Final plans and specifications for the project

5. **Build America, Buy America Act (BABAA):** (include if applicable following assessment of entity and project consideration of current agency-wide public interest waivers)

5.1. The recipient must comply with the provisions of the BABAA, Pub. L. No. 117-58, §§ 70901-70952, enacted November 15, 2021. The Act requires that none of the funds made available for a federal financial assistance program for infrastructure may be obligated for a project unless all iron, steel, manufactured products, and construction materials used in the project are produced in the United States. Recipients of an award of federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

5.1.1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
5.1.2. All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and;
5.1.3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

5.2. The BABAA requirement applies to the entirety of an infrastructure project, even if only a portion of the project is funded by federal funds. The requirement applies to each product, manufactured good, or construction material incorporated in the project.

5.3. **Definitions (as applied in this condition only):**
5.3.1. Construction Materials: include an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);

- glass (including optic glass);
- lumber; or
- drywall.

5.3.2. Domestic Content Procurement Preference: means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

5.3.3. Infrastructure: includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure also includes structures, facilities, and equipment that generate, transport, and distribute energy, including electric vehicle (EV) charging stations. “Infrastructure” has a broad interpretation, and the definition provided is illustrative and not exhaustive.

5.3.4. Manufactured Product: Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were mined, produced, or manufactured in the United States must be greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

5.3.5. Manufacturer’s Certification: Documentation provided by a manufacturer, certifying that the items provided by manufacturer meet the domestic preference requirements of the Act.

5.3.6. Project: means the construction, alteration, maintenance, or repair of infrastructure in the United States.

5.4. **BABAA Compliance:** By accepting these conditions, the recipient attests that they or their designee(s) will comply with all BABAA provisions and maintain documentation demonstrating compliance. Minimum records include certifications from manufacturers, the architect/engineers, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Inspector. Documentation must be available and reviewable upon request.

5.5. **Evidence Standards:**

5.5.1. Manufacturers: For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer’s certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative. The manufacturer may submit a letter on letterhead or provide other evidence acceptable to the Agency.

5.5.2. Architects and Engineers (A/E): The need to comply with BABAA will be spelled out in agreements for A/E services, construction contracts, and procurement contracts. Generally, the A/E contract will include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the recipient upon substantial completion of the project. The architect or engineer should certify in writing as to the completeness and accuracy of the manufacturers' certifications.

5.5.3. Resident Inspector (RI): The RI will verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They will photograph items as appropriate. RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

5.5.4. Contractors: The construction contract(s) will include a requirement to procure and install only items that comply with BABAA or are subject to a waiver approved by the Secretary of Agriculture or designee. The contractors are to provide manufacturers' certifications for all BABAA compliant items to the architect/engineer no later than with applications for payment. At substantial completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided to the architect/engineer.

5.6. **Obtaining Waivers under BABAA:** The Secretary of Agriculture, or a designee, may grant waivers to the procurement requirements under the following circumstances:

- Nonavailability. A determination is made that the required iron, steel or relevant manufactured goods or construction materials are not produced or manufactured in sufficient and reasonably available commercial quantities of satisfactory quality.
- Unreasonable cost. A determination is made that using domestic iron, steel, or relevant manufactured goods would increase the cost of the overall project by more than 25%.
- Inconsistent with public interest. A determination is made that applying these restrictions would be inconsistent with the public interest.

5.7. **BABAA Waivers for Rural Development:** A waiver of the domestic procurement requirement for a specific product in a specific infrastructure project may be obtained upon a satisfactory showing of evidence that the waiver is warranted by a recipient and a recommendation by the Agency. Waivers of the procurement requirement are granted by the Secretary of Agriculture or a designee. The requirements are posted publicly at: https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver

Before submitting a request for waiver, the recipient should determine whether they qualify for agency-wide public interest waivers that have already been approved by USDA. One such public interest waiver is referred to as the "*De Minimis*, Small Grants, and Minor Components" waiver, which has three parts.

- *De Minimis* is intended to prevent restrictions on the procurement of materials and products that represent a small portion of an infrastructure project, specifically no more than 5% of the project costs up to a maximum of $1,000,000, from hindering the overall project.

- *Small Grants* exempt projects below the federal simplified acquisition threshold of $350,000 (the grant section also applies to small loans and loan guarantees).
- The *Minor Components'* provision of the waiver exempts miscellaneous components of iron and steel that make up no more than 5% of the total cost of an iron or steel product used in a project.

6. **Inspections**: A full-time Resident Inspector is required during construction, unless a written exception is made by the Agency. This service will be provided by the consulting architect/engineer or other arrangements as approved by the Agency. Prior to the preconstruction conference, a resume of qualifications of the Resident Inspector(s) will be submitted to the owner and Agency for review and approval. The owner will provide a letter of acceptance for all proposed inspectors to the architect and Agency. At a minimum, Guide 11, Daily Inspection Report, must be completed and include the date, weather conditions, number and classification of personnel working on the site, equipment being used to perform the work, accounts of substantive discussions, instructions given to the contractors, directions received, all significant or unusual happenings involving the work, any delays, daily work accomplished and pictures in accordance with 1942-A, 1942.18 (o)(4). A similar format may be approved by the Agency prior to the pre-construction conference. The inspection reports must be available to the Agency for review at any time. These reports must be kept at the project site or grantee's office, if nearby. The reports will be included in the monthly report.

7. **Monthly Payment Applications:**
   7.1. **For construction projects:** the pay application submitted to the Agency must include:
      7.1.1. Form SF-271, "Outlay Report and Request for Reimbursement for Construction Programs". This form is required to document all project costs and funding sources and must be signed by the owner.
      7.1.2. Form RD 1924-18, "Partial Payment Estimate" page one will be fully executed by all required parties (contractor, architect, and owner) before sending to the Agency. The contractor may supplement Form RD 1924-18 with the AIA G702 and G703 Schedule of Values (SOV) documents instead of the 1924-18 page two.
      7.1.3. All required supporting documentation – such as invoices, proof of payment, and conditional and unconditional lien releases (if applicable) – must be provided with the pay application. The complete pay application must be submitted to the Agency only after all applicable parties have reviewed and certified, with their signatures, that the payment application is true and correct. Electronic signatures with a date/time stamp are encouraged.
   7.2. A pay application may only request payment on a change order that has been approved by the Agency using Form RD 1924-7, "Contract Change Order" or another Agency approved format. All required signatures, including the Agency's, must be on the form prior to the owner requesting reimbursement for a change order. If payment on a change order is requested prematurely, the entire pay application will be returned. A narrative, in plain language, must be included with the proposed change order request. The narrative should explain why the change is needed, indicate whether it was requested by the owner or contractor, and include any other relevant information necessary to support the request.

8. If interim financing is involved, the interim lender must review and approve all pay applications prior to disbursement and only after Agency approval, as evidenced by the signed Form RD1924-18.

9. **<u>Final Inspection</u>**: The Agency will conduct a final inspection of the grant-funded component before authorizing final payment.

SECTION III. GRANT CONDITIONS TO BE SATISFIED DURING THE GRANT LIFE CYCLE

1. **Disbursement of Grant Funds**: [2 CFR 200.302 and 2 CFR 200.303] Grant funds will not be disbursed until they are actually needed by the applicant and all Grantee, Agency, or other funds are expended.

2. **Reporting**: [2 CFR 200.329] The applicant must monitor and provide required reports to the Agency on actual performance for each project financed, or to be financed, in whole or in part with RD funds.

3. **Excess Funds:** [2 CFR 200.344, 2 CFR 200.472, 2 CFR 200.403(h), 2 CFR 200.346, 7 CFR part 3 and 31 CFR part 901] Any remaining funds must be utilized for approved purposes within 120 days following the final inspection or the funds will be canceled in accordance with Agency policies.

   3.1. Funds remaining after the applicant contribution may be considered in direct proportion to the amounts of funding obtained from each source. The use of agency funding will be limited to eligible grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
   3.2. Any reductions in Agency funding will be first applied to the grant funds.
   3.3. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within **120** days of final completion of project. Prior to actual cancellation, you, your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and be given appropriate appeal rights.
   3.4. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.
   3.5. Multiple advances: Grant funds that are not needed will be applied as an extra payment on the Agency indebtedness unless other disposition is required by the bond ordinance, resolution, or state statute.
   3.6. Interim financing: Grant funds that are not needed will be cancelled (de-obligated) prior to loan closing.

SECTION IV. GRANT CONDITIONS TO BE SATISFIED AFTER PROJECT COMPLETION

1. **Financial Statements**: To be submitted on an annual basis in accordance with the following:
   1.1. 2 CFR Part 200.501 establishes audit requirements that grantees must follow. Grantees expending $1,000,000 or more in federal awards during their fiscal year must submit a single or program-specific audit in accordance with 2 CFR 200, Subpart F.
      1.1.1. **Audit Agreement:** If your organization meets this federal audit threshold, you must engage a licensed Certified Public Accountant (CPA) to perform the audit and execute a written agreement with the CPA, which should include mutually agreed terms and conditions.
      1.1.2. Grantees must submit audits within nine months from the end of the grantee's fiscal year or 30 days after receipt from the auditor, whichever is earlier. The audited financial statements must be submitted to the Federal Audit Clearinghouse. It is not intended that audits required by this part be separate and apart from audits performed in accordance with state and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an independent licensed CPA, or a state or federal auditor, if allowed by state law.
   1.2. Grantees exempt from the audit requirements in Section 7.1, and who do not otherwise have annual audits, must provide RD with annual financial statements within 60 days after the end of the fiscal year in which grant funds were expended. These statements must include a verified balance sheet and statement of income and expenses.
      1.2.1. The grantee may use Forms RD 442-2 "Statement of Budget, Income and Equity" and 442-3 "Balance Sheet", or similar format to provide the financial information. For grantees using Form RD 442-2, the dual purpose of fourth quarter management reports, when required, and annual statements of income will be met with this one submission.

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Cleveland County
Finance & Purchasing Department
311 E. Marion Street
Shelby, NC 28151

February 26, 2026

RE: **Spangler Library Addition**
112 Piedmont Drive
Lawndale NC, 28090
Schematic Design Cost Proposal

BEAM Construction Company proposes to furnish all labor, material, and equipment for the design and construction of an addition, approximately 24'-7" wide by 34'-8", that is to be located on the East side of the existing building. The scope was developed during an onsite meeting with Blake Myers with Cleveland County. Beam conducted visual on-site investigations and also examined the original bid documents from the 2005 addition to see what possible conflicts may arise with existing underground utilities.

Division 1

- Architectural Design & Engineering
- Project Management & Supervision
- Plan Review & Permitting
- Clean-up / Dumpster
- Demo of Existing @ Tie-in Points
- Existing Building Protection
- Punch-out
- Temporary & Permanent Utility Cost by Owner
- 3rd Party Testing Allowance (soil & concrete)
- Contingency Allowance

Division 2

- Site Demo (concrete, stumps, steps)
- Grading
    - Cut in Crawl Space
    - Backfill Foundation & Finish Grading
- Sidewalk (approx. 350 sf included)
- Landscaping Allowance
- Termite Pretreat for Addition

Division 3

- Footings
- Reinforcing Steel & Concrete

- Remove Footing Spoils

Division 4
- CMU Foundation
- Brick Veneer (to match existing)
  - Includes Colored Mortar
- Precast Coping @ Top of Wall
- Masonry Cleaning

Division 5
- Steel Columns for LVL Roof Beams
- Anchor Bolts

Division 6
- Wood Framing (floor, walls, & roof system)
- Finish Carpentry
  - Baseboard, Crown, Window & Door Casing to Match Existing

Division 7
- Thermal Insulation
  - R-21 in Exterior Walls
  - Sound Batting in Interior Walls
- Fluid Applied Air Barrier on Exterior Walls
- Sealed Crawl Space
  - R-7.5 Rigid Insulation on Exterior Foundation Walls
  - 15-mil Vapor Barrier
  - Conditioned Air Supply from Heat Pump
- Caulking of Exterior Control Joints
- Roofing
  - .060 TPO Roof Membrane
  - R-30 ISO Insulation
  - Metal Parapet Capping
  - Flashing to Existing Building
  - Gutters & Downspouts

Division 8
- Windows
  - Three Exterior Double-hung Windows w/Arched Head to Match Existing
- Doors
  - Exterior Door w/Sidelite & Arched Head
  - Interior Painted Wood Doors
  - Metal Crawl Space Door

Division 9
- Sheetrock (Level 4 Finish)
  - 5/8” Drywall

  - 1 5/8” Furring on Existing Brick Walls
  - Direct Hung Grid System for Sheetrock Ceiling
  - Patch Existing Walls @ Tie-in Points
- Painting
  - Interior Painting of New Addition
  - Exterior Painting of Door, Lintels & Crawl Space Door
- Flooring
  - Carpet Tile in Meeting Room
  - Luxury Vinyl Tile in Restrooms & Kitchenette Area

Division 10

- Toilet Accessories
  - Grab Bars, Toilet Paper Dispensers, Paper Towel Dispensers, Soap Dispensers, & Mirrors
- Restroom Signage
- Storage Shelving Allowance

Division 12

- Casework for Kitchenette

Division 15

- Plumbing
  - 2 New Restrooms w/ One Toilet & One Lavatory each
  - Kitchenette w/Single Bowl Sink & Faucet
  - Relocate Existing Sewer Line @ Addition Location
  - Replace 40 Gallon Electric Water Heater
  - Relocate Water Line @ Addition Location
  - Provide & Install RPZ @ Existing Water Meter
- Mechanical
  - Provide a New Heat Pump Unit Serving Main Space
    - Exterior Unit Will be Relocated to Behind Building
  - Provide and Install a New Heat Pump and Ductwork for Addition

Division 16

- Electrical
  - Relocate Existing Meterbase
  - Provide Surface Mounted LED Light Fixtures
  - Provide New Receptacles in Addition
  - Electrical to RPZ @ Meter
  - Data Wiring Allowance

Total Schematic Cost as currently proposed above (Base Bid) $638,513

Allowances Included in Base Bid:

• General Contingency	$25,213
• 3rd Party Testing	$5,000
• Seeding & Landscaping	$5,000
• Storage Shelving	$500
• Data Wiring	$2,000

Alternate 1 – New Floorcovering in Existing Space

- Remove Existing Floorcovering and Install New Carpet Tile in Main Space's. Install LVT in Restrooms. Install Hard Tile at Main Entry Door. Books and Shelving to be Removed and Reinstalled by the Owner.
    - Total Cost For This Alternate $61,053

Alternate 2 – New Light Fixtures in Existing Space

- Remove Existing Light Fixtures and Install New LED Light Fixtures of Similar Type and Style. Fixtures are to be Replaced 1 for 1.
    - Total Cost For This Alternate $6,711

Alternate 3 – Paint Interior of Existing Space

- Paint Interior Walls, Ceilings, Trim, Doors, etc in Existing Space.
    - Total Cost For This Alternate $19,938

Alternate 4 – Re-Roof and Exterior Painting

- Remove & Dispose of All Existing Roofing. Install New Metal Shingle (as Manufactured by Berridge or ArrowLine) in Same Location and Orientation as Existing (This Includes the Bell Tower Roof), Install New Metal R-Panel (as Manufactured by Metal Roofing Systems) in Same Location and Orientation as Existing, Install new TPO Membrane & Trim Metal at 2005 Addition, Install Gutters & Downspouts on Entire Building.
- Prep and Paint all Existing Exterior Surfaces That Are Currently Painted.
    - Total Cost For This Alternate $136,758

Alternate 5 – New Casework at Main Entry

- Provide and Install New Plastic Laminate Casework and Countertops. This Will Include Removal & Disposal of the Existing and Will Also Include the Disconnection and Reconnection Of The Electrical And Data In This Area.
    - Total Cost For This Alternate $13,971

Alternate 6 – New Mechanical Unit for the 2005 Addition

- Provide And Install New Split System Heatpump, This Includes A New Indoor AHU And A New Outdoor Condensing Unit. This Is Priced As A Goodman 15 Seer System With A 10kw Auxiliary Heat Strip. This Includes Removal & Disposal Of The Existing Units.
    - Total Cost For This Alternate $13,283

Alternate 7 – Additional Asphalt Paving

- This Will Provide Approximately 5 Additional Parallel Parking Spaces On The West Side Of The Road As You Come Around The One Way Drive Just Before The Entrance To The Existing Parking Lot. The Existing Sub-Grade Will Be Cut Down 8" Will Be Removed And Wasted On-Site, 6" Of ABC Will Be Placed And Compacted, 2" Of Surface Course Will Be Placed, And The Parking Places Will Be Striped With Traffic Paint.
  - Total Cost For This Alternate $21,341

Alternate 8 – New Main Entry

- The Existing Main Entry Door And Side-Lites Will Be Removed And Disposed Of. An Aluminum Storefront System Will Be Installed That Will Consist Of A Door, Side-Lites, And An Arched Head Transom. The Door Will Have An Exit Device, Closer, And Weatherstripping.
  - Total Cost For This Alternate $21,713

Alternate 9 – New Radiused Head Windows

- The Four Large Radiused Windows That Are Remaining In The Original Portion Of The Building Will Be Removed And Disposed Of, New Vinyl Clad Windows (Similar In Design) Will Be Installed, New Interior Window Casing Will Be Installed, The Interior Of The Windows Will Be Painted And The Adjacent Finishes Will Be Touched Up.
  - Total Cost For This Alternate $44,834

Alternate 10 – Refurbish Bell Tower

- The Existing Wood Will Be Inspected, Wood That Is Found To Be In Question Will Be Removed And Replaced. The Remaining Existing Surfaces Will Be Prepped To Receive New Finishes And Will Be Painted.
  - Total Cost For This Alternate $7,159

Alternate 11 – Sidewalk To Bell Tower

- Grade, Prep, And Pour A 5' Wide Sidewalk That Will Extend From The New Addition Sidewalk To The Bell Tower. This Will Include Backfilling And Seeding Disturbed Areas.
  - Total Cost For This Alternate $9,962

Respectfully,

Jason Clontz
Vice President

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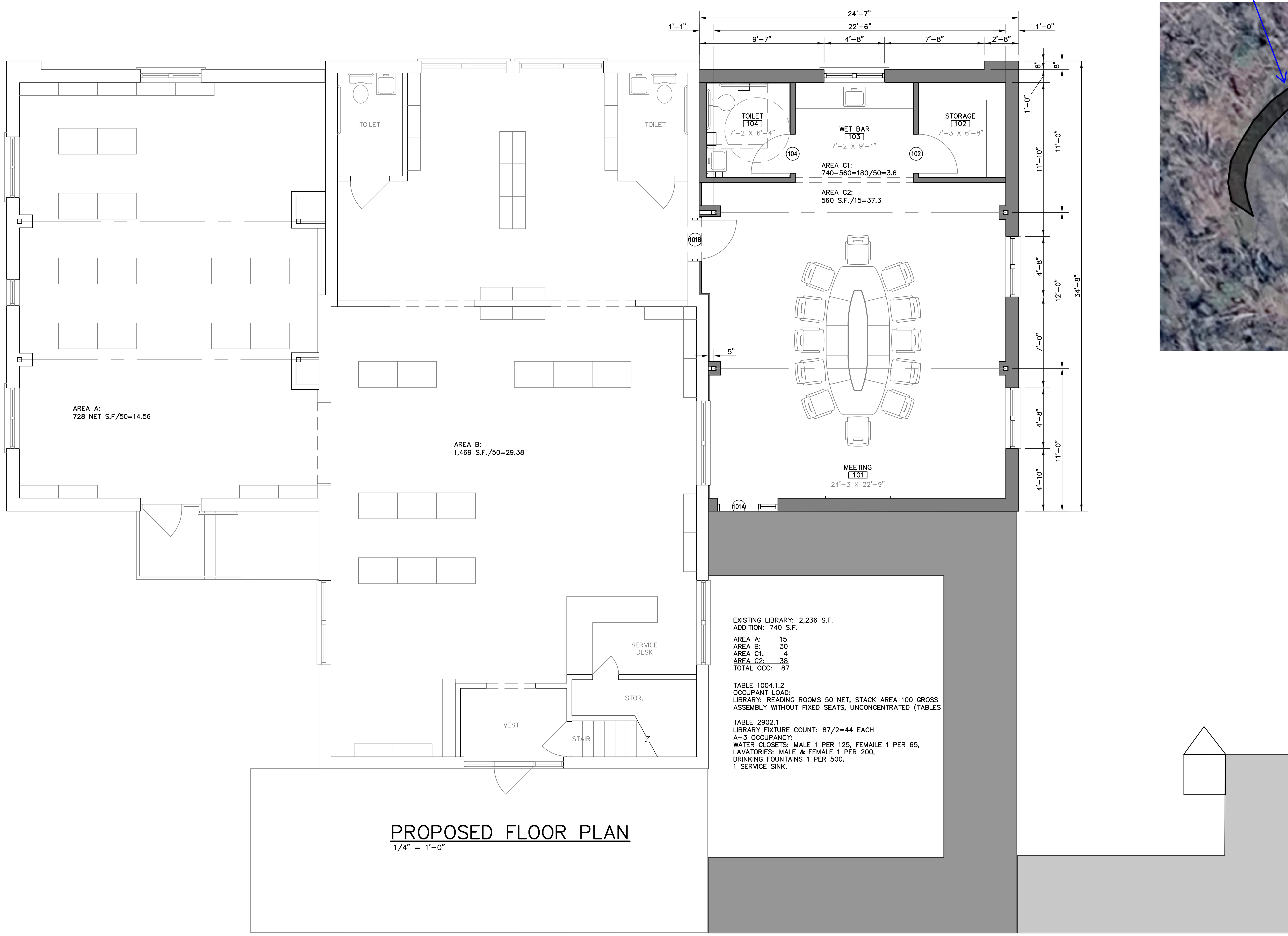
SUMMARY SHEET — *Base Bid*

Building : Spangler Library Addition - Schematic Budget	**Masonry : mwks**	**Bid Date: 2/26/2026**
Location : Lawndale NC	**Crew Size : <Crew Size>**	**Bid Time : 2:30:00 PM**
Architect : Holland & Hamrick	**Stories :**	**Penalty : 0 / day**
Floor Area (sf) : 850 sf	**Retainage : 5 %**	**Const Time : 4mnth**
Assummed Cost : $900,000	**Addendum :**	

Beam Description	Takeoff Quantity	Labor Price	Material Price	Labor Amount	Material Amount	Sub Amount	Total Amount	Notes
0100 GENERAL CONDITIONS								
0101 Supervision/Travel				49,751	9,216		58,967	
0102 Layout				608	233		841	
0103 Temp Const Fac/Equip				2,037	7,104		9,141	
0104 Power/Fuel/Telephone					2,743		2,743	
0105 Testing						5,148	5,148	Allowance
0106 Bonds/Permits/Fees				2,681	1,646		4,326	
0107 Equipment Maint					1,920		1,920	
0108 Beam Equipment Rental				1,716	19,156		20,871	
0109 Outside Equipment Rental								
0110 Project Management				17,156	1,975		19,130	
0134 Dumpster					8,228		8,228	
0135 Clean Up				3,764	963	3,012	7,738	
0171 Punchlist				4,789	1,605		6,394	
0120 Allowances								
0140 Allowances								
0200 SITEWORK								
0210 Grading						21,107	21,107	
0221 Place & Finish Walks						5,148	5,148	
0230 Asphalt Paving				1,430	274	14,121	15,825	
0235 Concrete sidewalk around belltower						7,336	7,336	
0240 Seeding & Landscaping						5,148	5,148	Allowance
0251 Tap & Meter Fees								
0260 Soil Treatment						515	515	
0300 CONCRETE								
0305 Foundations				2,576	3,131		5,707	
0322 Bars & Mesh				751	2,222		2,972	
0330 Precast Concrete				4,026	1,404		5,430	
0400 MASONRY								
0401 Brick				24,632	6,638		31,270	
0402 Standard Block				4,728	2,660		7,388	
0403 Masonry Accessories				2,434	2,998		5,433	
0404 Mortar					3,621		3,621	
0407 Scaffolding				4,003	1,097		5,100	
0408 Beam Masonry Equipment					1,454		1,454	
0411 Masonry Cleaning						937	937	
0413 Concrete Wall Fill				1,430	2,469		3,898	
0420 Supervision				8,312	1,152		9,464	
0460 Masonry Hauling & Clean-Up				1,430	549		1,978	
0500 STRUCTURAL STEEL								
0520 Structural Steel				1,144	4,800		5,944	
0521 Misc Steel				21	55		76	
0525 Nails/ Bolts/ Shots					549		549	
0600 CARPENTRY								
0615 Rough Carpentry				2,073	1,317	50,966	54,356	
0616 Finish Carpentry				2,376	1,222	0	3,598	
0617 Redo Wood On Belltower - Alternate				2,859	1,097	1,544	5,501	
0619 Rough Hardware					2,304		2,304	
0700 MOISTURE PROTECTION								
0702 Dampproofing				1,251	1,651	7,644	10,546	
0715 Caulking						772	772	
0719 Insulation						0	0	
0729 Roofing & Exterior Painting - ALTERNATE						100,708	100,708	
0730 Roof & Sheet Metal						12,356	12,356	
0800 DOORS & WINDOWS								
0822 Wood Doors				1,501	4,937		6,438	
0823 Special Doors				143	274		417	
0824 Glass & Windows				1,430	21,747		23,177	
0825 Replace Main Entry Door - ALTERNATE				2,144		14,003	16,147	
0826 Replace Exterior Arched Head Windows				4,146	28,610	1,030	33,785	
0829 Finish Hardware				357	2,194		2,552	
0900 FINISHES								
0917 Drywall & EIFS						24,824	24,824	
0923 Paint & WC						4,119	4,119	
0924 Paint Existing Interior - Alternate						3,089	3,089	
0950 VCT & Carpet						6,406	6,406	
0951 New Flooring In Existing Spaces - Alternate				5,032		22,623	27,656	
1000 MISC SPECIALTIES								
10120 Toilet Accessories				257	2,469		2,726	
10130 Fire Extinguisher Cabinets				214	933		1,147	
10150 Signage				29	55		83	
1200 FURNISHINGS								
12100 Educational Casework						6,929	6,929	
12101 New Casework At Existing Main Entry - ALTERNATE				1,430		8,372	9,802	
1500 MECHANICAL								
15400 Plumbing						27,615	27,615	
15500 HVAC						41,185	41,185	
1600 ELECTRICAL								
16320 Electrical						22,085	22,085	
16321 New Light Fixtures In Existing Space - Alternate						4,942	4,942	
16322 Front Desk Data/Electrical - ALTERNATE						592	592	

Estimate Totals

Description	Amount	Totals	Hours		Rate			Cost Basis	Cost per Unit		Percent of Total	
Labor	164,660		2,304.000	hrs					193.717	/sf	16.54%	
Material	158,668								186.668	/sf	15.94%	
Subcontract	424,277								499.150	/sf	42.63%	
Equipment			64.000	hrs								
Other												
	747,605	747,605							879.535	/sf	75.12%	75.12%
Builder's Risk	2,500							L	2.941	/sf	0.25%	
Cleveland Cty Permit	1,990				0.002	$ /	1	T	2.342	/sf	0.20%	
P & O	99,524				10.000	%		T	117.087	/sf	10.00%	
OWNER Contingency	39,809				4.000	%		T	46.835	/sf	4.00%	
Design/Engineering	69,667				7.000	%		T	81.961	/sf	7.00%	
Preconstruction Fee	19,905				2.000	%		T	23.417	/sf	2.00%	
Prof. Insurances (2026)	3,384				0.340	%		T	3.981	/sf	0.34%	
Technology Fee (2026)	2,787				0.280	%		T	3.278	/sf	0.28%	
Sub Bonds - PME								C				
Bond - Design/Build (2026)	8,066							B	9.489	/sf	0.81%	
Total		***995,237***							***1,170.867***	***/sf***		



PROPOSED FLOOR PLAN
1/4" = 1'-0"

HOLLAND HAMRICK
ARCHITECTS, P. A.
AIA
201 S. WASHINGTON ST., SUITE 200
SHELBY, NORTH CAROLINA 28150
304 15TH ST. SOUTHEAST
HICKORY, NORTH CAROLINA 28602
704 487 8578
www.h-harchitects.com

PROJECT TITLE
Addition to Spangler Library
Lawndale, North Carolina

COMM. #: 2546
DATE: 1-20-25
DESIGN DEVELOPMENT
REVISIONS:

SHEET TITLE
PROPOSED FLOOR PLAN OPTION 2

A1.1

Resolution in Support of the Spangler Library Addition Project.

WHEREAS, the Spangler Branch Library is owned by the Town of Lawndale, but has been leased to Cleveland County since 2005 as a component of the Cleveland County Library System;

WHEREAS, the Spangler Branch Library is in need of necessary facility improvements and additional space to meet growing community needs;

WHEREAS, the Cleveland County Board of Commissioners applied for a Rural Development Community Facilities Grant through the United States Department of Agriculture for funding to support a portion of the cost for facility improvements and to build an addition to the Spangler Branch Library;

WHEREAS, the Spangler Branch Library Addition project was awarded a grant of up to SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($750,000.00), and the County will match up to $250,000.00) for a total maximum project of ONE MILLION DOLLARS ($1,000,000.00);

Therefore, The Cleveland County Board of Commissioners Resolves that:

1. The Cleveland County Board of Commissioners hereby accepts the conditions set forth in the Letter of Conditions and Community Facilities Grant Agreement & Supplemental, and authorizes the County Manager to execute all forms necessary to obtain a grant from Rural Development, including, but not limited to the following forms:

a.	Form RD 1942-46	Letter of Intent to Meet Conditions
b.	Form RD 1940	Request for Obligation of Funds
c.	Form RD 3570-3	Community Facilities Grant Agreement, Grant Agreement Supplemental, and Notice of Federal Interest
d.	Form RD 1940-1	Request for Obligation of Funds
e.	Form RD 400-4	Assurance Agreement and Certification of Compliance
f.	Form 1940-Q	Lobbying Certification

2. The Cleveland County Board of Commissioners hereby authorizes the County Manager to enter into a Design-Builder contract with Beam Construction to complete the project.

Adopted this the 4th day of August, 2026.

Kevin Gordon, Chairman
Cleveland County Board of Commissioners

ATTEST:

Phyllis Nowlen,
Clerk to the Board of County Commissioners

AIA® Document A141® – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 4th day of August in the year 2026
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Cleveland County
311 E. Marion St.
PO Box 1210
Shelby, NC 28151

and the Design-Builder:
(Name, legal status, address and other information)

Beam Construction Company, Inc.
601 E. Main Street
PO Box 129
Cherryville, NC 28021

for the following Project:
(Name, location and detailed description)

Spangler Library Addition
112 Piedmont Drive
Lawndale, NC 28090

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

TABLE OF ARTICLES

TABLE OF EXHIBITS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria and is concurred with by the Agency set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

Design and construction of an addition, approximately 24'-7" wide by 34'-8", that is to be located on the East side of the existing building as well as existing building upgrades.

§ 1.1.2 The Owner's design requirements for the Project and related documentation:
(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

§ 1.1.3 The Project's physical characteristics:
(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

The project is located at 112 Piedmont Drive, Lawndale, North Carolina (Cleveland County Parcel No 36823). The project shall consist of the construction of an addition, approximately 24'7" wide by 34'8", to be located and attached to the east side of the existing building.

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:
(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

September 1st, 2026

.2 Submission of Design-Builder Proposal:

Proposal has been previously submitted

.3 Phased completion dates:

.4 Substantial Completion date:

If the Work is not substantially complete on or before this date, or within this period of time, or extension thereof granted by the Owner, the Design/Builder shall pay to the Owner liquidated damages in the sum of $100.00 (One Hundred Dollars) for each calendar day of delay. Any sums that may be due the Owner as liquidated damages may be deducted from any monies due or to become due the Design/Builder under the Contract or may be collected from the Design/Builder's surety.

Substantial completion date to be 182 Calander days have the notice to proceed is issued.

.5 Other milestone dates:

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:
(List name, legal status, address and other information.)

.1 Architect
Holland & Hamrick Architects, P.A.
201 S. Washinton Street, Suite 200
Shelby, NC 28150
304 15th Street SE
Hickory, NC 28602
Telephone: 704-487-8578 »

.2 Consultants

TBD by Architect

.3 Contractors

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

NONE

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner, the Agency, and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Design-Builder and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including building information modeling.

§ 1.2 Project Team
§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

David Cotton, County Manager
David.Cotton@clevelandcountync.gov
PO Box 1210
Shelby, NC 28151

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

Blake Myers, Facilities Project Manager
Blake.myers@clevelandcountync.gov
403 Pinkney St
Shelby, NC 28150

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

N/A

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Jason Clontz
Beam Construction Company, Inc
601 East Main Street,
Cherryville, NC 28021
Email: jclontz@beamconstruction.com
Telephone: 704-473-5292 »

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[X] Arbitration pursuant to Section 14.4

[ ] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

§ 1.4.16 Agency. The term "Agency", as used in this Attachment, shall mean the United States of America, acting through United States Department of Agriculture.

§ 1.4.17 Independent Inspector. The term "Independent Inspector," as used in this Attachment, shall mean the Inspector independent from the Design/Builder hired by the Owner to represent the Owner's interests. The Agency requires a construction inspector independent of the Design/Builder.

.1 The Independent Inspector shall be a representative of and shall advise and consult with the Owner during construction until final payment is due to the Design/Builder, and at the Owner's direction during the period of correction of the Work described in the design/build documents. The Independent Inspector shall furnish consultations necessary to identify construction defects and correct unforeseen conditions encountered during this period. The Independent Inspector shall assist the Owner in performing a review of the Project during the 11th month after the date of Substantial Completion.

.2 The Independent Inspector shall conduct an inspection prior to the issuance of the Acknowledgement of Substantial Completion and shall submit a written report to the Owner, Agency and the Design/Builder about Work to be completed prior to final acceptance. Such services shall be coordinated with the Agency. Prior to submitting the final Application for Payment, the Independent Inspector shall conduct an inspection, submit a Statement of Completion, and receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Design/Builder.

.3 Visits to the site shall be documented in writing on standard inspection report forms with copies furnished to the Owner, Design/Builder and Agency. Visits to the site shall be in accordance with Agency requirements and procedures.

§ 1.4.18 Build America, Buy America Act (BABAA) – Requirements instituted by the Bipartisan Infrastructure Law of 2021 mandating domestic preference that all iron and steel, manufactured products, and construction materials are produced in the United States.

§ 1.4.18.1 Construction Materials – Those articles, materials, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives – that are or consist primarily of: non-ferrous metals, plastic and polymer-based products, glass, lumber or drywall.

§ 1.4.18.2 Manufactured Product – Items assembled out of components, or otherwise made or processed from raw materials into finished products. Manufactured products must be manufactured (assembled) in the United States, and the cost of components that were mined, produced, or manufactured in the United States must be greater than 55 percent of the total cost of all components of the project.

§ 1.4.18.3 Manufacturer's Certification – Documentation provided by a Manufacturer, certifying that the items provided by Manufacturer meet the domestic preference requirements of BABAA.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:
(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

N/A

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See design build amendment

Individual or Position	Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses; and
.9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of Two percent (2%) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid SIXTY (60) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.
(Insert rate of monthly or annual interest agreed upon.)

1% monthly

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.3.3 The Design/Builder shall advise the Owner of required tests, inspections and reports, shall furnish coordination of such tests and inspections, and shall advise the Owner and Agency of the results of same. Copies of test results shall be furnished to the Owner, Owner's Independent Inspector and Agency, as appropriate.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work. Any extra cost that may result from any such acts and omissions will be the responsibility of the Design/Builder.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work. The Design/Builder shall conduct a Preconstruction Conference prior to the beginning of construction to familiarize all parties involved with the necessary work. This meeting shall be held with the Design/Build representative, Owner, Owner's Independent Inspector, Agency representative(s) and other interested parties as appropriate. The Agency 'Record of Preconstruction Conference' may be used to document the meeting.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.7.1 The Design/Builder shall consult with the Agency Architect or Engineer about the Agency's requirements and procedures.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- **.1** Work completed for the period;
- **.2** Project schedule status;
- **.3** Submittal schedule and status report, including a summary of outstanding Submittals;
- **.4** Responses to requests for information to be provided by the Owner;
- **.5** Approved Change Orders and Change Directives;
- **.6** Pending Change Order and Change Directive status reports;
- **.7** Tests and inspection reports;
- **.8** Status report of Work rejected by the Owner;
- **.9** Status of Claims previously submitted in accordance with Article 14;
- **.10** Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- **.11** Current Project cash-flow and forecast reports; and

.12 Additional information as agreed to by the Owner and Design-Builder.

.13 The Design/Builder shall conduct on-site pay/progress meetings no less than once a month during the periods of active construction. These meetings shall be held with the Design/Build representative, Owner, Owner's Independent Inspector, Agency representative(s) and other interested parties as appropriate, to review and discuss the application for payment, work progress schedule, construction problems or disputes and other appropriate matters.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

.1 Design-Builder's work force report;

.2 Equipment utilization report; and

.3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal and written concurrence by the Agency has been issued. Two (2) sets of submittals for the Agency are required.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1.The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- **.1** allocations of program functions, detailing each function and their square foot areas;
- **.2** a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- **.3** a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- **.4** the following:
  (List additional information, if any, to be included in the Design-Builder's written report.)

  « »

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- **.1** Confirmation of the allocations of program functions;
- **.2** Site plan;
- **.3** Building plans, sections and elevations;
- **.4** Structural system;
- **.5** Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- **.6** Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- **.1** A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;

.2 The proposed Contract Sum, including the compensation method;
.3 The proposed date the Design-Builder shall achieve Substantial Completion;
.4 An enumeration of any qualifications and exclusions, if applicable;
.5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
.6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.3.4 The Design/Builder shall not contract with any person or entity declared ineligible under Federal laws or regulations from participating in federally assisted construction projects for to whom the Owner has made reasonable objection. The Design/Builder shall not be required to contract with anyone to whom the Design/Builder has reasonable objection.

§ 5.3.5 The Design/Builder shall comply with the Federal Requirement for Domestic Preference: Iron and steel products, Manufactured Products, and Construction Materials used in this project shall comply with the Build America, Buy America Act

(BABAA) requirements mandated by Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Installation of materials or products that are not compliant with BABAA requirements shall be considered defective work.

§ 5.4 Taxes
The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws
§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances
§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

.1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers
§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site
The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site
The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching
The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up
§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work
The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors
§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts
§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Design-Builder” in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder’s construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder’s Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder’s Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner’s or separate contractor’s completed or partially completed construction is fit and proper to receive the Design-Builder’s Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder’s delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor’s delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner’s Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner, Agency and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A change order is a written order to the Design/Builder utilizing Form RD 1924-7, "Contract Change Order," signed by the Owner, Independent Inspector, Design/Builder, and the Agency representative. It is issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. The Design/Builder's signing of the change order indicates complete agreement therein.

§ 6.3 Change Directives
§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly. A Construction Change Directive may be used only for a change in response to an emergency, as described in Paragraph 10.4.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.4 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.5 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.6 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.7 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES
§ 7.1 General
§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization. The Owner shall provide the Design/Builder with Agency standard Contract Document Guides.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner
§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work
If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work
If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME
§ 8.1 Progress and Completion
§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time
§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment using AIA Document G-702, 'Application and Certificate for Payment' or Form RD 1924-18, 'Partial Payment Estimate', for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.1.3 The Design/Builder shall obtain Agency concurrence on all Applications of Payment before payment is made.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1. Agency concurrence is required on all Certificates of Payment before payment is made.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

.1 defective Work, including design and construction, not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
.3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments
§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.6.8 The amount retained shall be 10% of the value of Work until 50% of the Work has been completed or a withholding of equal or greater value, such as, 5% for the full duration of the project. If 10% is held, at 50% completion, further partial payments shall be made in full to the Contractor and no additional amounts may be retained unless the Architect certifies that the Work is not proceeding satisfactorily but amounts previously retained shall not be paid to the Contractor. At 50% completion or any time thereafter when the progress of the Work is not satisfactory, additional amounts may be retained, but in no event shall the total retainage be more than 10% of the value of Work completed.
Alternate industry-standard retainage proposals may be considered by RD when:

.1 The retainage proposal is mandated by the State in which the project is located.
.2 The retainage proposal does not add risk to the applicant and the Agency.

§ 9.6.9 No progress payments will be made that deplete the retainage, place in escrow any funds that are required for retainage, or invest the retainage for the benefit of the Design/Builder.

§ 9.7 Failure of Payment
If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon ten (10) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion
§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare , in collaboration with the Agency Architect or Engineer, for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The certificate of substantial completion shall be submitted by the Design-Builder to the Owner and the Agency for written acceptance of responsibilities assigned to it in the certificate. When the Work has been substantially completed, except for the work which cannot be completed because of weather conditions, lack of materials or other reasons, which, in the judgment of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed.

§ 9.9 Partial Occupancy or Use
§ 9.9.1 The Design/Builder agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the Owner under the following conditions:

§ 9.9.1.1 A Certificate of Substantial Completion shall be prepared and executed as provided in subparagraph 9.8.4, except that when, in the opinion of the Inspecting Architect, the Design/Builder is chargeable with unwarranted delay in completing the Work or the Contract requirements, the signature of the Design/Builder will not be required. The Certificate of Substantial Completion shall be accompanied by copies of Design/Builder's insurance policies, written endorsements of the Design/Builder's insurance carrier, and the surety permitting occupancy by the Owner during the remaining period of the Project Work. Occupancy and use by the Owner shall not commence until authorized by public authorities having jurisdiction over the Work.

§ 9.9.1.2 Occupancy by the Owner shall not be construed by the Design/Builder as being an acceptance of that part of the Project to be occupied.

§ 9.9.1.3 The Design/Builder shall not be held responsible for any damage to the occupied part of the Project resulting from the Owner's occupancy.

§ 9.9.1.4 Occupancy by the Owner shall not be deemed to constitute a waiver of existing claims in behalf of the Owner or Design/Builder against each other.

§ 9.9.1.5 If the Project consists of more than one building, and one of the buildings is to be occupied, the Owner, prior to occupancy of that building, shall secure permanent property insurance on the building to be occupied and necessary permits which may be required for use and occupancy.

§ 9.9.2 With the exception of clause 9.9.1.5, use and occupancy by the Owner prior to Project acceptance does not relieve the Design/Builder of the responsibility to maintain all insurance and bonds required of the Design/Builder under the Contract Documents until the Project is completed and accepted by the Owner. Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner, Owner's Independent Inspector and Agency representative shall promptly make such inspection and, and when the Owner finds the Work acceptable under the Design/Build documents and fully performed, the Owner with Agency concurrence shall, subject to Section A.9.10.2, promptly make final payment to the Design/Builder.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Design-Build Documents; or

.3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder’s obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder’s organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder’s superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-

Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies
In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK
§ 11.1 Uncovering of Work
The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work
§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion
§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work
If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES
§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause
§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder
.1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
.2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
.3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
.4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
.5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:
.1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
.2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience
§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience
§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall
.1 cease operations as directed by the Owner in the notice;
.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION
§ 14.1 Claims
§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims
§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time
§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages
The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- **.1** damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- **.2** damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision
§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure
§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation
§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration
§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation may be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 The arbitration provisions in this subsection may be initiated by either party to this Contract by filing with the other party a written request for arbitration. The other party may accept or reject the request by filing a written answering statement with the requesting party within fourteen (14) calendar days of the receipt of such request. If the request is accepted the provisions of this section shall apply. If the request is rejected or an answering statement is not filed within the fourteen (14) day period, the provisions in this subsection will not apply.

§ 14.4.1.2 Within fourteen (14) calendar days or any mutually agreeable time period thereafter, each party to this Contract will appoint one arbitrator. Within fourteen (14) calendar days or any mutually agreeable time period thereafter, the two arbitrators will select a third arbitrator. Failure to appoint an arbitrator within the mutually agreeable time periods will terminate further actions under this subsection.

§ 14.4.1.3 The arbitrators will select a hearing location as close to the Owner's locale as possible.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder
§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

This Agreement will not become effective until concurred with in writing by the Agency. Such concurrence shall be evidenced by the signature of a duly authorized representative of the Agency in the space provided at the end of this attachment to the Agreement. The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for payment hereunder.

But in the event such financial assistance is provided, the Agency concurrence shall signify the provisions of this Agreement are consistent with the requirements of the Agency.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ 15.10 Statutes

§ 15.10.1 The Design/Builder and each subcontractor shall comply with the following statutes (and the regulations issued pursuant thereto, which are incorporated herein by reference):

§ 15.10.2 The Design/Builder agrees to abide by the requirements of 2 CFR part 417 and under Executive Order 12549, which pertains to the debarment or suspension of a person from participating in a Federal program or activity. If the total compensation exceeds $25,000, the Design/Builder shall complete the relevant certification form provided by the Owner.

§ 15.10.3 If applicable, the Design/Builder shall comply with Section 319 of Public Law 101-121, as supplemented by the Department of Agriculture regulations (2 CFR part 418and DR 2400-5). This Law pertains to restrictions on lobbying and applies to the recipients of Contracts and Subcontracts that exceed $100,000 at any tier under a Federal loan that exceeds $150,000 or a Federal grant that exceeds $100,000. If applicable, the Design/Builder must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding for this Contract. The certification and disclosure forms shall be provided by the Owner.

§ 15.10.4 Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person in connection with the construction to give up any part of the compensation to which the person is otherwise entitled.

§ 15.10.5 Clean Air Act (42 U.S.C. 7414), section 114, and the Water Pollution Control Act (33 U.S.C. 1813), section 308. Under Executive Order 11738 and Environmental Protection Agency (EPA) regulations 40 CFR part 15, all Contracts in excess of $100,000 are required to comply with these Acts. The Acts require the Contractor to:

§ 15.10.5.1 Notify the Owner of the receipt of any communication from EPA indicating that a facility to be utilized in the performance of the Contract is under consideration to be listed on the EPA list of Violating Facilities,

§ 15.10.5.2 Certify that any facility to be utilized in the work by any nonexempt contractor or subcontractor is not listed on the EPA list of Violating Facilities as of the date of the Contract Award.

§ 15.10.5.3 Include or cause to be included the above criteria and requirements of clauses A.13.3.5.1 and A.13.3.5.2 in every nonexempt Subcontract, and that the Contractor will take such actions as the Agency may direct as a means of enforcing such provisions.

§ 15.10.6 Build America, Buy America Act
Domestic Preference Requirements for Federal Financial Assistance to Non-Federal Entities. Federal Financial Assistance to Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of Section 70914 of the Build America, Buy America Act (BABAA), under Title IX of the Infrastructure Investment and Jobs Act, Pub. L. 177-58. Any requests for waiver of these requirements must be submitted pursuant to USDA's guidance available online at USDA Buy America Waivers for Federal Financial Assistance | USDA.

§ 15.10.6.1 This agreement is for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget's regulation (reference 2 CFR 200) on the application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

§ 15.10.6.2 The Design/Builder shall be responsible for:

.1 Providing costs and revisions thereof that reflect compliance with BABAA requirements.

.2 Determining and certifying that to the best of Provider's knowledge and belief all iron and steel products, manufactured products, and construction materials referenced in any technical analysis/report; the plans, specifications, and bidding documents; any bid addenda; and change orders comply with all federal requirements, including BABAA.

.3 Providing only iron, steel, construction materials and manufactured products that meet BABAA requirements. Installation of materials or products that are not compliant with BABAA requirements shall be considered defective work.

.4 Including manufacturer's certification for BABAA requirements with all applicable submittals. If a specific manufacturer is used in the bidding, a statement that the manufacturer will comply with BABAA requirements must be included with the bid submission. Design/Builder shall comply with BABAA requirements, including coordination with manufacturers, distributors, and suppliers to correct deficiencies in any BABAA documentation.

.5 Providing manufacturer's certification for BABAA requirements with any change order for any new construction materials or manufactured products required by the change.

.6 Certifying by submitting an application for payment, based in whole or in part on furnishing construction materials or manufactured products; that such materials and products, to the Design/Builder's knowledge, are compliant with BABAA requirements.

.7 Ensuring that the Architect / Engineer has been provided an approved manufacturer's certification or waiver prior to items being delivered to the project site.

.8 Certifying upon completion that all work and materials are in compliance with BABAA requirements.

§ 15.11 Environmental Requirements
§ 15.11.1 Mitigation Measures – The Design/Builder shall comply with applicable mitigation measures established in the environmental assessment for the project. These may be obtained from the Agency representative.

§ 15.11.2 The Design/Builder, when constructing a Project involving trenching, excavating, or other earth moving activity, shall comply with the following environmental constraints:

§ 15.11.2.1 Endangered Species, Historic Preservation, Human Remains and Cultural Items, Hazardous Materials, and Paleontology – Any excavation or other earth moving activity by the Design/Builder that provides evidence of the presence of endangered or threatened species or their critical habitat, uncovers a historical or archaeological artifact, human remains or cultural items, hazardous materials, a fossil or other paleontological materials will require the Design/Builder to:

.1 Temporarily stop work;

.2 Provide immediate notice to the Architect and the Agency, and in the case of potentially hazardous materials, provide immediate notice to local first responders and take such measures as necessary to protect the public and workers;

.3 Take reasonable measures as necessary to protect the discovered materials or protected resource;

.4 Abide by such direction as provided by the Agency, or Agencies responsible for resource protection or hazardous materials management; and

.5 Resume work only upon notice from the Architect and the Agency.

§ 15.12 Compliance with all Federal, State, and local requirements effective on the contract execution date will be the responsibility of the Design/Builder.

§ 15.13 Records

§ 15.13.1 If the Contract is based on a negotiated Bid, the Owner, the United States Department of Agriculture, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Design/Builder which are directly pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions. The Design/Builder shall maintain records for at least three years after the Owner makes final payment and all other pending matters are closed.

ARTICLE 16 SCOPE OF THE AGREEMENT
§ 16.1 This Agreement is comprised of the following documents listed below:
.1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
.2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed
.3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds
.4 Other:
Payment Bond
Performance Bond
Disclosure of Lobbying Activities (SF-LLL)
Certification for Contracts, Grants and Loans (RD Instruction 1940-Q, Exhibit A-1)

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Design/Builder, one to the Owner and one to the Agency. Concurrence in the Contract by the Agency is required before the contract is effective.

OWNER:

ATTEST:	______________________	BY:	______________________
Print Name:	Phyllis Nowlen	Print Name:	David Cotton
Title:	Clerk to the Board of Commissioners	Title:	County Manager
Date:	______________________	Date:	______________________

DESIGN/BUILDER:

ATTEST:	______________________	BY:	______________________
Print Name:	______________________	Print Name:	Justin Boheler
Title:	______________________	Title:	President
Date:	______________________	Date:	______________________

OWNER'S ATTORNEY REVIEW:

I have examined this design/build contract and have received verification that the proper performance and payment bond(s) will be issued and executed thereof, and I am of the opinion that each of the aforesaid agreements are adequate and has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.

By: ______________________

Print Name: Ben Logan Roberts

Date: ______________________

AGENCY CONCURRENCE:
Approved as lender or insurer of fund to defray the costs of this contract and without liability for any payments thereunder, the USDA Rural Development hereby concurs in the award of this contract.

By: ______________________ Title: ______________________

Print Name: ______________________ Date: ______________________

AIA® Document A141® – 2014 Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the 4th day of August in the year 2026 (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Spangler Library Addition
112 Piedmont Drive
Lawndale, NC 28090

THE OWNER:
(Name, legal status and address)

Cleveland County
311 E. Marion St.
PO Box 1210
Shelby, NC 28151

THE DESIGN-BUILDER:
(Name, legal status and address)

Beam Construction Company, Inc.
601 E. Main Street
PO Box 129
Cherryville, NC 28021

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

[X] Stipulated Sum, in accordance with Section A.1.2 below

[ ] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

[ ] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum
§ A.1.2.1 The Stipulated Sum shall be Nine Hundred Ninety-Five Thousand two hundred thirty six dollars and zero cents ($995,236.00), subject to authorized adjustments as provided in the Design-Build Documents.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

Alternate 1: New Floor Covering in Existing space
Alternate 2: New Light Fixtures in Existing Space
Alternate 3: Paint interior of existing space
Alternate 4: Re-Roof and Exterior Painting of existing building
Alternate 5: New casework at main entry
Alternate 6: New mechanical unit for the 2005 addition
Alternate 7: Additional Asphalt paving
Alternate 8: New Main Entry
Alternate 9: New Radiused Head Windows
Alternate 10: Refurbish bell tower
Alternate 11: Sidewalk to bell tower »

§ A.1.2.3 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit ($0.00)

§ A.1.5 Payments
§ A.1.5.1 Progress Payments
§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

The 26th from the previous month to the 25th of the current month.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the last day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the 15th day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Owner receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum
§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- **.1** Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Five percent (5%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- **.2** Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Five percent (5%);
- **.3** Subtract the aggregate of previous payments made by the Owner; and
- **.4** Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- **.1** Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
  (Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- **.2** Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

« »

§ A.1.5.5 Final Payment
§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than One hundred eighty-five days (185) days from the date of this Amendment, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Substantial completion shall be 185 from the notice to proceed

Portion of Work	Substantial Completion Date

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:
(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages

§ A.3.1.3 The Drawings:
(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Final drawings to be provided by Holland & Hamrick

Number	Title	Date

§ A.3.1.5 Allowances and Contingencies:
(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

Third Party Testing: $5,000.00
Seeding and Landscaping: $5,000.00
Storage Shelving: $500.00
Data Wiring:$2,000.00

.2 Contingencies

General Contingency: $25,213.00

§ A.3.1.6 Design-Builder's assumptions and clarifications:

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:
(Identify name, title and contact information.)

.1 Superintendent

TBD

.2 Project Manager

TBD

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

NONE

ARTICLE A.5 COST OF THE WORK

§ A.5.1 Cost To Be Reimbursed as Part of the Contract

§ A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.
(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate ($0.00)	Rate (unit of time)

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs
§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies
§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term "related party" includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

- **.1** Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- **.2** Expenses of the Design-Builder's principal office and offices other than the site office;
- **.3** Overhead and general expenses, except as may be expressly included in Section A.5.1;
- **.4** The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- **.5** Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- **.6** Any cost not specifically and expressly described in Section A.5.1; and
- **.7** Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records
The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties
The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**DESIGN-BUILDER** *(Signature)*
David Cotton, County Manager Cleveland County, North Carolina	Justin Boheler, President Beam Construction

AIA® Document A141® – 2014 Exhibit B

Insurance and Bonds

for the following PROJECT:
(Name and location or address)

Spangler Library Addition
112 Piedmont Drive
Lawndale, NC 28090

THE OWNER:
(Name, legal status and address)

Cleveland County
311 E. Marion St.
PO Box 1210
Shelby, NC 28151

THE DESIGN-BUILDER:
(Name, legal status and address)

Beam Construction Company, Inc.
601 E. Main Street
PO Box 129
Cherryville, NC 28021

THE AGREEMENT
This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the 4th day of August in the year 2026.
(In words, indicate day, month and year.)

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

ARTICLE B.1 GENERAL
The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS
§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required

insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million Dollars ($1,000,000.00) for each occurrence and Two Million ($2,000,000.00) in the aggregate providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury;
.3 damages because of injury to or destruction of tangible property;
.4 bodily injury or property damage arising out of completed operations; and
.5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.
.6 The Owner shall be named as co-insured on the liability insurance.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million Dollars ($1,000,000.00) per claim and One Million Dollars ($1,000,000.00) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

« »

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Two Million Dollars ($2,000,000.00) per claim and Two Million Dollars ($2,000,000.00) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1.

The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.1.11 The insurance required in subparagraph B.2.1 shall be written for not less than the following limits, or greater if required by law:

.1 Workers' Compensation:

(a)	State: NC	Statutory
(b)	Applicable Federal	Statutory (E.g. Longshoremen's)
(c)	Employer's Liability:	$ 1,000,000.00 per Accident
		$ 1,000,000.00Disease, Policy Limit
		$ 1,000,000.00 Disease, Each Employee

.2 Comprehensive or Commercial General Liability (Including Premises-Operations; Independent Design/Builders' Protective; Products and Completed Operations; Broad Form Property Damage):

(a)	Bodily Injury:	$ 1,000,000.00 Each Occurrence
		$ 2,000,000.00 Aggregate
(b)	Property Damage	$ 1,000,000.00 Each Occurrence
		$ 2,000,000.00 Aggregate

(c) Products and Completed Operations to be maintained for years after final payment:
$ 2,000,000.00 Aggregate

(d) Property Damaged Liability Insurance shall provide X, C and U coverage.

(e) Broad Form Property Damage Coverage shall include Completed Operations.

.3 Contractual Liability:

(a)	Bodily Injury	$10,000.00 Each Occurrence
		$1,000,000.00 Aggregate
(b)	Property Damage	$ 1,000,000.00 Each Occurrence
		$ 1,000,000.00 Aggregate

.4 Personal Injury, with Employment Exclusion deleted:
$ N/A Aggregate

.5 Business Auto Liability (including owned, non-owned and hired vehicles):

(a)	Bodily Injury	$1,000,000.00 Each Person
		$ 1,000,000.00 Each Occurrence
(b)	Property Damage	$ 1,000,000.00 Each Occurrence

.6 If the General Liability Coverages are provided by a Commercial Liability policy, the:

(a) General Aggregate shall be not less than $ N/A and it shall apply, in total, to this Project only.

(b) Fire Damage Limit shall be not less than $ N/A on any one fire.

(c) Medical Expense Limit shall be not less than $_N/A on any one person

.7 Umbrella Excess Liability: $10,000,000.00
$ over primary insurance
$ retention for self-insured hazards each occurrence.

.8 If an exposure exists, Aircraft Liability (owned and non-owned) and Watercraft Liability (owned and non-owned) with limits approved by the Owner shall be provided.

§ B.2.2 Performance Bond and Payment Bond
The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	Based on the contract sum
Performance Bond	Based on the contract sum

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

§ B.2.2.2 The Design/Builder shall furnish the Owner Bonds covering faithful performance of the Contract and payment of obligations arising thereunder with such bonds dated on or before the date of this agreement. The surety company executing the Bonds must hold a certificate of authority as an acceptable surety on Federal Bonds as listed in Treasury Circular 570, as amended, and be authorized to transact business in the State where the Project is located. The Bonds (using the latest AIA forms) shall each be equal to the amount of the Contract Sum. The cost of these Bonds shall be included in the Contract Sum.

§ B.2.2.3 The Design/Builder shall require the attorney-in-fact who executes the required Bonds on behalf of the surety to affix thereto a certified and current power of attorney.

§ B.2.2.4 If at any time a surety on any such Bond is declared bankrupt or loses its right to do business in the State in which the Work is to be performed or is removed from the list of surety companies accepted on Federal Bonds, the Design/Builder shall within ten (10) calendar days after notice from the Owner to do so, substitute an acceptable Bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums of such Bond shall be paid by the Design/Builder. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to the Owner.

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.3.2.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

NONE

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Request to Set a Public Hearing on Tuesday, September 15, 2026, for Planning Department Case 26-19, a Request to Re-Zone 1513 and 1519 S. Battleground Avenue from Residential (R) to Light Industrial (LI)

Department:	Planning Department
Agenda Title:	Request to Set a Public Hearing on Tuesday, September 15, 2026, for Planning Department Case 26-19, a Request to Re-Zone 1513 and 1519 S. Battleground Avenue from Residential (R) to Light Industrial (LI)
Agenda Summary:	
Proposed Action:	

ATTACHMENTS:

File Name	Description
1._26-19_Staff_Report_BOC_Set_Hearing.pdf	26-19 Staff Report
2._Petition.pdf	26-19 Petition
3._Map_Aerial.pdf	26-19 Aerial Map
4._Map_Zoning.pdf	26-19 Zoning Map
5._Map_LUP.pdf	26-19 LUP Map

STAFF REPORT

To: Board of Commissioners

From: Chris Martin, Planning Director

Date: August 4th, 2026

Subject: Case 26-19 Rezoning Heavy Industrial to Light Industrial

Location: 1519 and 1513 S. Battleground Road

Parcel(s): 11467 and 11466

Summary Statement: John Cavolli of Battleground LLC, is requesting to rezone parcels 11466 and 11467, owned by Battleground LLC, containing 8 acres, from Residential (R) to Light Industrial (LI).

Review: The property lies on Battleground Ave near the Bethlehem Rd intersection just south of Kings Mountain. The surrounding uses are auto parts sales across the road from the subject property with the remainder of uses mostly consisting of residential and rural agricultural uses.

The surrounding zoning districts are HI and R. The 2021 Land Use Plan designates this area as Secondary Growth, promoting new development at lower densities. Commercial uses and residential subdivisions should be strategically placed to help preserve the rural character.

Utilities: Public water provided by Cleveland County Water
Fire District: Bethlehem

Planning Board: The planning board can review the request at their August 25th, 2026 regular meeting.

Requested Board Action: Consider setting a public hearing for your regular meeting on **Tuesday September 15th, 2026 at 6pm.**

Cleveland County
NORTH CAROLINA

PETITION FOR AMENDMENT OF THE ZONING MAP

NOW COMES Battleground Ave, LLC, Applicant, whose present mailing address is 500 NW 32nd st Newcastle OK 73065 / 500 NW 32nd St Newcastle, OK 73065, who respectfully petitions and shows as follows:

1. That the applicant is the ☒ **owner,** ☐ **legal representative,** ☐ **or other concerned parties**, of a certain tract or parcel of land located in Cleveland County, North Carolina, being more particularly described as:

Physical Address: 1513 : 1519 S Battleground Ave. Kings Mountain, NC

Parcel(s): 11466 : 11467 containing ~3 acres.

(if a portion of property attach survey)

2. That said property above described is presently zoned Residential and the undersigned applicant desires and does hereby request that said property be rezoned to: Light Industrial.

3. The proposed zoning change would require a change in the Zoning Map? **YES** X **NO** ____

If the answer is yes: An application for rezoning shall be accompanied by a survey, legal description, or map sufficient to provide public notice of the area requested for rezoning.

4. Owners of adjoining property hereby support this petition by signing below: Adjoining property shall be construed to mean and include property on the opposite side of any street, road, or highway from the property sought to be rezoned (attach an additional sheet if necessary).

PROPERTY OWNER (SIGNATURE)	PROPERTY OWNER (PRINT NAME	PROPERTY ADDRESS

Respectfully submitted this 24th day of June, 20 26.

SIGNED: [signature]

E-MAIL: johncallovi@gcgmail.com **PHONE NUMBER:** 702-465-6018

702-465-6018

For office use: John Callovi@gcgmail.com

Payment Code: ***ZP 11 Map Amendment*** ***Fee:*** **$300**

Paid on: 7-13-26 ZP: 187733 Case #: 26-19

Rezoning Case 26-19

Parcels 11466 & 11467

1513 & 1515 S. Battleground Ave.

Rezoning Case 26-19: Zoning Map

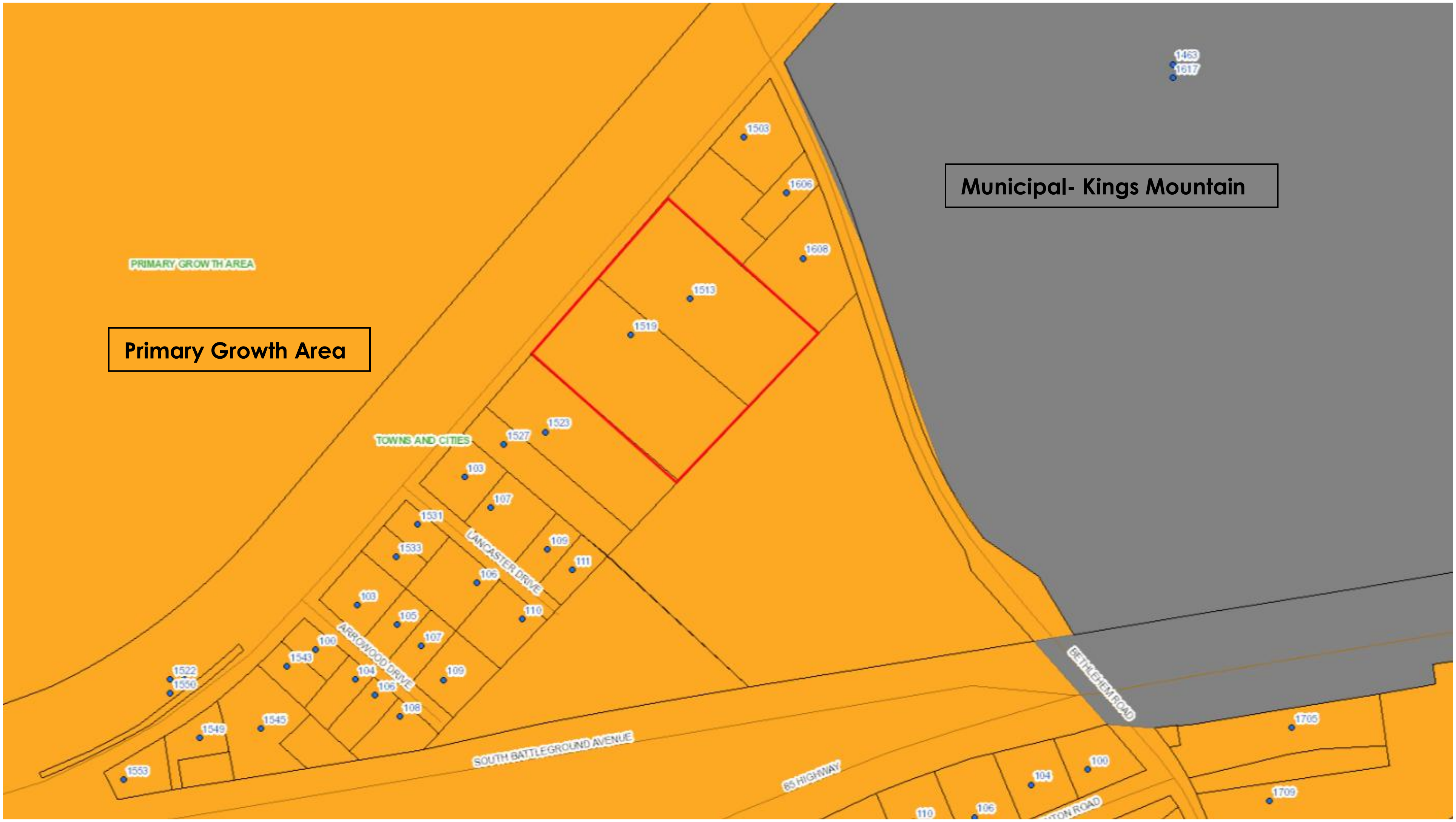
Parcels 11466 & 11467

1513 & 1515 S. Battleground Ave.

Rezoning Case 26-19: Future Land Use Plan Map

Parcels 11466 & 11467

1513 & 1515 S. Battleground Ave.



COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Planning Department Case 25-19; Town of Fallston Future Land Use Plan Adoption

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Department:	
Agenda Title:	Planning Department Case 25-19; Town of Fallston Future Land Use Plan Adoption
Agenda Summary:	Chris Martin, Planning Director
Proposed Action:	

ATTACHMENTS:

File Name	Description
25-19_Staff_Report_Public_Hearing_Board_of_Commissioners.pdf	25-19 Staff Report
25-19_Fallston_Future_Land_Use_Plan_2026.pdf	25-19 Fallston LUP

STAFF REPORT

To: Board of Commissioners Date: August 4, 2026

From: Chris Martin, Planning Director

Subject: Town of Fallston Land Use Plan

Summary Statement: The Town of Fallston is requesting the Board of Commissioners consider amending the County's Land Use Plan to include the town's adopted Land Use Plan.

Review: The Town of Fallston engaged the services of Benchmark Planning to develop the town wide Land Use Plan. It was shared at two public input meetings and with the County's Planning Board. The Town adopted the plan June 2, 2026 after holding a public hearing.

The Town Council wishes for the newly adopted Land Use Plan to be included with the County's plan. This partnership is supported by the County's land use plan which encourages county support for planning services to our municipalities. Five of our municipalities have adopted land use plans under the County's umbrella, including; Belwood, Earl, Grover, Lawndale, and Mooresboro. The County provides full planning services to these towns.

Land Use Plan: Fallston recognizes the potential for increased development activity throughout the area and desires to guide future growth in an organized manner so that the town's resources and character may be preserved. The land use plan will serve as a guiding document when making future policy and land use decisions.

The adopted land use map included with this report shows land use designations similar to the other towns in the County, including residential, commercial, and industrial. The map generally recognizes maintaining the status quo of existing uses within the town, while also accommodating potential moderate growth.

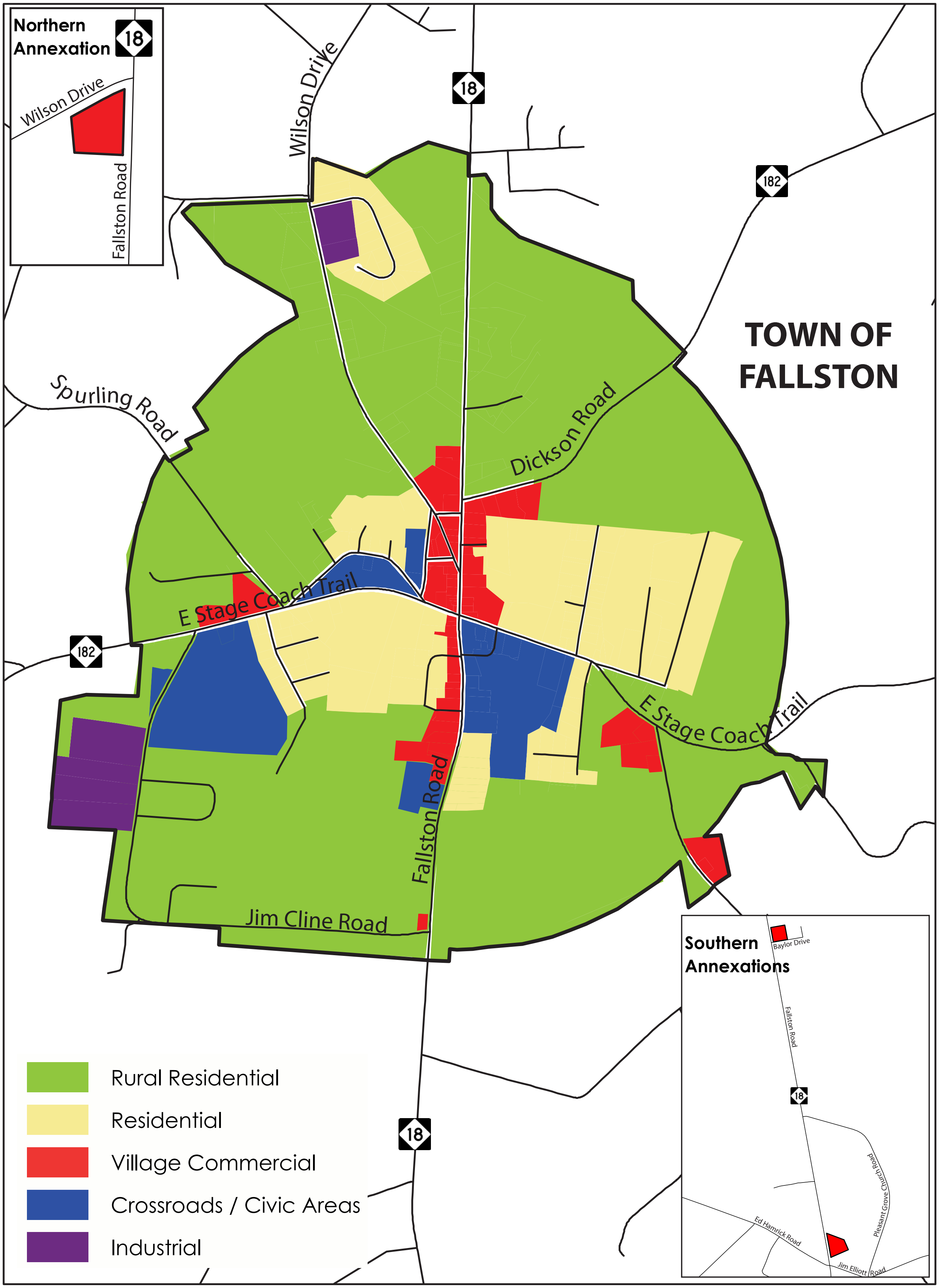
Requested Action: Hold a public hearing and consider amending the County Land Use Plan by inserting the Town of Fallston's approved plan.

FALLSTON

The Town of Fallston is in northeastern Cleveland County and began as the "Kitchen Corners" stagecoach stop before being named and incorporated in the 1890s. With just over two square mile of area, the Town is a community of over 600 residents that has seen modest growth over the past 40 years. Core commercial and civic uses are concentrated around the intersection of NC-18 / Fallston Road and NC-182 / Stage Coach Trail in the center of Town. This area houses a number of commercial uses and restaurants, as well as Fallston Elementary School, the Fallston Fire Department, and churches. Smaller lot residential development is also generally concentrated along these areas, with the periphery of the Town consisting mainly of large lot residential homes and agricultural uses. A manufacturing use is also located in the most southwestern portion of Fallston. Recently, the Town's population has grown at a modest rate and housing inventory remains low. However, there is some potential for future growth if demand from surrounding regions should increase. The Future Land Use Map generally recognizes maintaining the status quo of existing uses within the Town, while also accommodating moderate growth over time.

▼ FIGURE 38 FALLSTON'S LOCATION

▼ FIGURE 39 FALLSTON'S HISTORIC POPULATION



Northern Annexation
18
Wilson Drive
Fallston Road
Wilson Drive
18
182
TOWN OF FALLSTON
Spurling Road
Dickson Road
E Stage Coach Trail
182
E Stage Coach Trail
Fallston Road
Jim Cline Road
Southern Annexations
Baylor Drive
Fallston Road
18
Pleasant Grove Church Road
Ed Hamrick Road
Jim Elliott Road
18
Rural Residential
Residential
Village Commercial
Crossroads / Civic Areas
Industrial

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Planning Department Case 26-09; Add Section 12-164, Development Standards for Data Centers, to the Unified Development Ordinance (UDO)

Department:	
Agenda Title:	Planning Department Case 26-09; Add Section 12-164, Development Standards for Data Centers, to the Unified Development Ordinance (UDO)
Agenda Summary:	Chris Martin, Planning Director
Proposed Action:	

ATTACHMENTS:

File Name	Description
1._26-09_Staff_Report_Public_Hearing_BOC_8-4-2026.pdf	26-09 Staff Report
26-09_DRAFT_Ordinance_PB_7-28-2026.pdf	26-09 Draft Ordinance

STAFF REPORT

To: Board of Commissioners

Date: August 4, 2026

From: Chris Martin, Planning Director

Subject: Code Amendment Case 26-09

Data Centers

Summary Statement: The Planning Department is requesting to add Section 12-164, Development Standards for Data Centers to the Cleveland County Unified Development Ordinance (UDO).

Review: Data Centers (NAICS 518210) are currently permitted in the Light and Heavy Industrial zoning districts as a use by right, with no specific standards guiding development.

The draft amendment will provide development standards to help ensure compatibility with surrounding properties. They will work to improve visual effects and assist in minimizing any noise associated with the facility. Proposed standards include:

- Setbacks and vegetative buffering around the property
- Hours of operation applied to generator testing
- Utility approval
- Required site plan site plan displaying emergency access

The objective of these standards is to promote compatibility of any future data center to its surrounding area, minimize any noise effects to adjacent properties, increase response efficiency in case of emergency, and ensures all applicable permits are obtained.

The draft ordinance is included for your review and consideration.

Requested Action: Hold a public hearing and consider the draft ordinance.

<u>Objective</u>: To provide land development standards for future data centers promoting compatibility with surrounding properties, minimizing noise impacts, and assisting with efficient public safety response.

Sec. 12-164. Data Centers.

The following development standards shall apply to the construction or addition of any data center developed after the effective date of this section:

(1) *Site Plan*. A site plan, signed and sealed by a professional engineer licensed pursuant to GS § 89C shall be prepared in accordance with section 12-33(a). The site plan shall show the location of any structures within one hundred (100) feet of the property line, and it shall also demonstrate compliance with the other standards of this section.

(2) *Setbacks*.

a. All primary structures, accessory structures, and mechanical equipment, including generators, associated with a data center shall maintain a minimum setback of 100 linear feet from any property line.

b. Structures associated with a data center shall be located no less than 500 linear feet from any property line shared with a residential zoning district

c. No data center shall be located within 1,000 linear feet of the right-of-way of a NCDOT scenic byway.

(3) *Landscaping and Screening*.

a. Type B screening, as outlined in Section 12-305, shall be required along all exterior property lines unless existing screening is deemed sufficient by the administrator.

b. In addition to the required Type B screening along exterior property line, Type A screening shall be required to surround any generator(s) or ancillary mechanical unit.

(4) *Noise*.

a. Any generator shall be located within a sound limiting enclosure.

b. Testing of a generator is limited to the hours of 7:00 am and 7:00 pm.

c. Except for generator testing or commissioning activities, generator use is limited to backup/emergency use only.

(5) *Utilities.*

a. Prior to the issuance of a zoning permit, a letter from the electric utility purveyor indicating sufficient capacity to serve the proposed data center shall be submitted to the Planning Department. The letter shall specify the amount of energy and voltage level the data center will use at full operating capacity.

b. Prior to the issuance of a zoning permit, a letter from the public water purveyor indicating sufficient capacity to serve the proposed data center shall be submitted to the Planning Department. The letter shall specify the amount of water the data center will use at full operating capacity.

(6) *Federal, state, and local requirements*.

Following issuance of a zoning permit and prior to issuance of a building permit for construction of a new data center, the applicant shall supply documentation to the Cleveland County Planning Department that all necessary federal, state, and local approvals have been obtained and notifications have been made pursuant to applicable federal and state requirements for building a new data center. At minimum, these shall include:

a. A site plan showing emergency access shall be submitted to and approved by the Cleveland County Emergency Management;

b. Official documentation demonstrating compliance with any permitting required from the North Carolina Department of Environmental Quality (NCDEQ);

Secs. 12-~~164~~ 165—12-170. Reserved.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Planning Department Case 26-15; Request to Rezone Parcels 21945, 21944, and 21929 from General Business (GB) to Residential (R)

Department:	
Agenda Title:	Planning Department Case 26-15; Request to Rezone Parcels 21945, 21944, and 21929 from General Business (GB) to Residential (R)
Agenda Summary:	Chris Martin, Planning Director
Proposed Action:	

ATTACHMENTS:

File Name	Description
1._26-15_Staff_Report_PH.pdf	26-15 Staff Report
2._26-15_Petition.pdf	26-15 Petition
3._26-15_Map_Aerial_Map.pdf	26-15 Aerial Map
4._26-15_Map_Zoning.pdf	26-15 Zoning Map
5._Case_26-15_Ordinance.pdf	26-15 Ordinance

STAFF REPORT

To: Board of Commissioners

Date: August 4th, 2026

From: Chris Martin, Planning Director

Subject: Case 26-15 Rezoning General Business to Residential

Location: 2615 Oak Grove Road

Summary Statement: Mona Johnson, property owner, is requesting to rezone three adjoining parcels, containing a combined 1.96-acres, from General Business (GB) to Residential (R).

Review: The property lies along the northern side of Oak Grove Road just west of the John H. Moss Lake Recreation Park. The surrounding uses are mostly single family residential. Parcel 21929 currently has a dwelling, parcel 21945 has a building, and parcel 21946 is currently vacant. The surrounding zoning districts are Restricted Residential (RR) to the north and one parcel is General Business (GB) immediately to the west of the subject parcel. On the opposing side of Oak Grove Road, the zoning is Residential (R). The 2021 Land Use Plan designates this area as Primary Growth, promoting new development at lower densities. Commercial uses and residential subdivisions should be strategically placed to help preserve the rural character.

Current Zoning District: GB—General Business - Accommodates a wide variety of retail and limited wholesale/warehousing uses. Generally located on arterial streets with capacity for additional commercial traffic.

Requested Zoning District: R—Residential - Single-family detached dwellings, modular homes, manufactured homes at a maximum density of two (2) dwelling units per acre. Multi-family housing (like duplexes and apartments) if certain standards are met.

Consistency Statement: *NCGS 160D-605 requires that local government boards adopt a consistency statement showing that the decision it makes fits in with the land use plan or if not, is reasonable and has a public interest.*

Planning Board: The planning board reviewed this request at their July 28th meeting and unanimously recommended approval stating that the request is reasonable and consistent with the land use plan.

Requested Board Action: Approve or deny the request.

Cleveland County
NORTH CAROLINA

PETITION FOR AMENDMENT OF THE ZONING MAP

NOW COMES Mona Johnson, Applicant, whose present mailing address is 2615 Oak Grove Rd Shelby NC 28150, who respectfully petitions and shows as follows:

1. That the applicant is the ☑ **owner,** ☐ **legal representative,** ☐ **or other concerned parties**, of a certain tract or parcel of land located in Cleveland County, North Carolina, being more particularly described as:

Physical Address: 2615 Oak Grove Rd Shelby NC 28150

Parcel(s): 21945 + 21944 containing 1.4695 acres.

(if a portion of property attach survey)

2. That said property above described is presently zoned GB
and the undersigned applicant desires and does hereby request that said property be rezoned to: R.

3. The proposed zoning change would require a change in the Zoning Map? **YES** ✓ **NO** ____

If the answer is yes: An application for rezoning shall be accompanied by a survey, legal description, or map sufficient to provide public notice of the area requested for rezoning.

4. Owners of adjoining property hereby support this petition by signing below: Adjoining property shall be construed to mean and include property on the opposite side of any street, road, or highway from the property sought to be rezoned (attach an additional sheet if necessary).

PROPERTY OWNER (SIGNATURE)	PROPERTY OWNER (PRINT NAME	PROPERTY ADDRESS

Respectfully submitted this 22 day of May, 2026.

SIGNED: Mona Johnson

E-MAIL: Katmandu03@TWC.com **PHONE NUMBER:** 704 484 0036

For office use:

Payment Code: ***ZP 11 Map Amendment*** ***Fee: $300***

Paid on: 5-22-26 ZP: 187142 Case #: 26-15

Rezoning Case 26-15

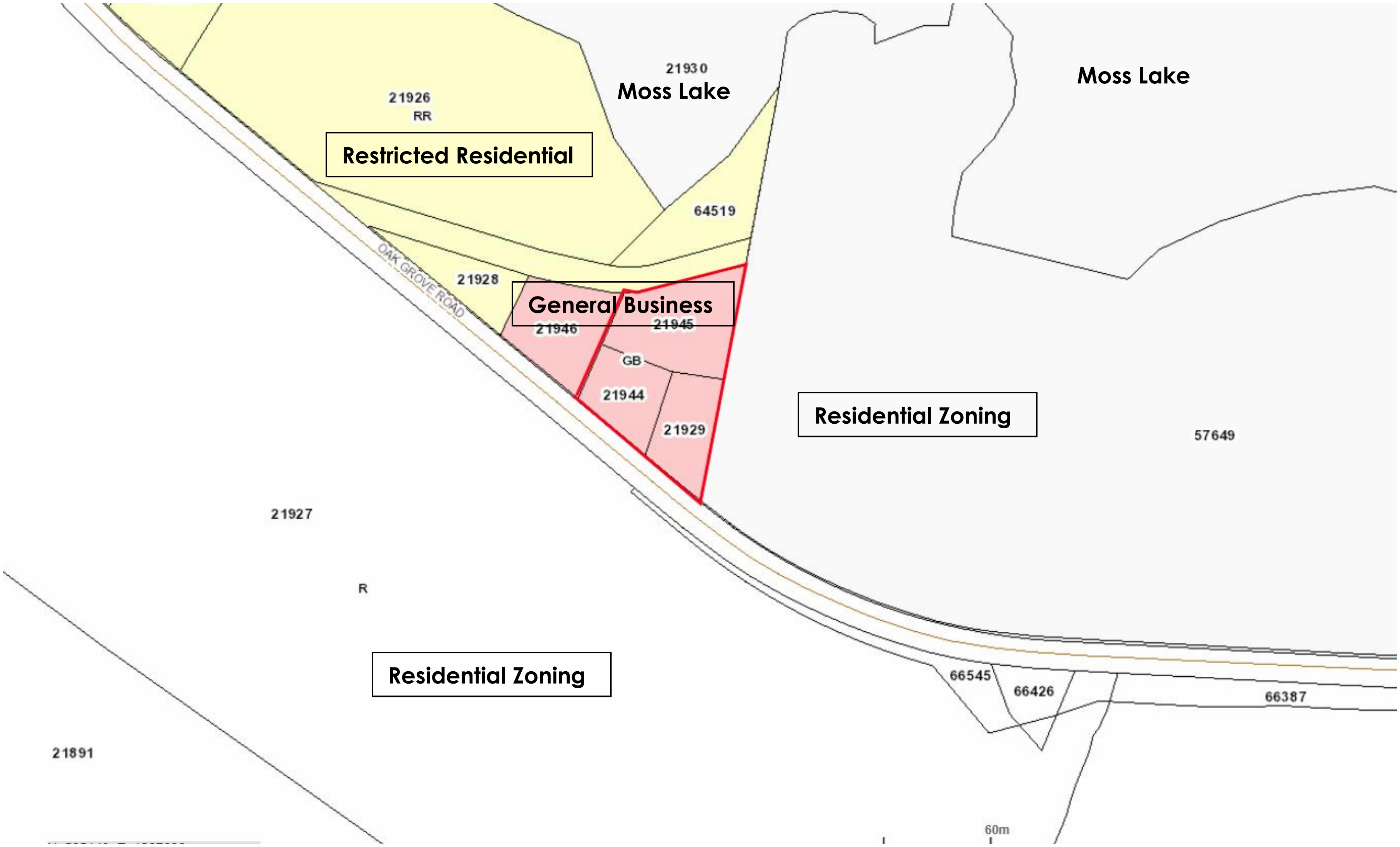
Parcels 21944, 21929, & 21945

2615 Oak Grove Rd.

Rezoning Case 26-15: Zoning Map

Parcels 21944, 21929, & 21945

2615 Oak Grove Rd.



ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF CLEVELAND COUNTY

General Business to Residential
2615 Oak Grove Rd.

Case 26-15

- **Parcels 21944, 21945, & 21929 – Owner(s): Mona S. Johnson – Deed Book 1896 Page 2114**

WHEREAS, Article Two of Chapter 160D of the North Carolina General Statutes provides for the planning and regulation of development within the territorial jurisdiction of the county; and

WHEREAS, the Cleveland County Planning Board recommended to approve the zoning map amendment on May 26th 2026; and

WHEREAS, said rezoning will promote the health, safety, and welfare of the citizens of Cleveland County, the public interest would be furthered, and said amendment would be reasonable and beneficial to the orderly growth of Cleveland County; and

WHEREAS, notice of the Public Hearing was published in the Shelby Star on July 24^{th}, 2026 and July 31^{st}, 2026, and notices were mailed to adjoining property owners on July 14^{th}, 2026 and a sign posted at the property on July 24^{th}, 2026; and

WHEREAS, all requirements of the North Carolina General Statutes have been met prior to any action by the Cleveland County Board of Commissioners to amend the official zoning map following a public hearing on August 4^{th}, 2026;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners that the Cleveland County Zoning Map, as described in Section 12-147 of the Cleveland County Unified Development Ordinance, be amended to change the classification of Parcels 21944, 21945, and 21929 containing a combined 1.79 acres as shown in Exhibit "A" and described more below, from General Business to Residential.

TRACT ONE: BEGINNING at a stake in the center of a fifteen foot gravel farm road, said stake being located North 25-45 East, 30 feet from the center of the Oak Grove Church Road, and in the right of way of said Oak Grove Road; and runs thence with the center of said gravel farm road, North 25-45 East 115 feet to a stake in the center of said farm road; thence leaving said road, South 67 East 143 feet to a service power pole; thence the line of Elliott M. Johnson, South 18 West 163.5 feet to a stake in the right of way of the Oak Grove Church Road (30 feet from the center); thence with edge of the right of way, North 50-25 West 161.5 feet to the place of BEGINNING according to an unrecorded map and survey by C. E. Anderson, September, 1959. Parcel ID: 21944

TRACT TWO: BEGINNING at an iron pin in the middle of a gravel farm road, said in being located 145 feet from the center of the intersection of the Oak Grove Church Road and said gravel road, and runs thence with Freemon Cash's line, South 67 East 143 feet to a utility pole; thence with Elliott M. Johnson's line, South 82-30 East 100 feet to an iron pin in Beam's line; thence with Beam's line, North 11 East 248 feet to an iron pin in the South edge of a soil county road; thence South 74 West 226.5 feet to an iron pin in the intersection of said soil county road with said gravel farm road; thence with the center of said gravel farm road South 25-45 West 134 feet to the BEGINNING, containing 1 acre, more or less, according to a survey and plat made by Charles Anderson. The foregoing is that property shown in deed recorded in Book 8-U at Page 673 in the Office of the Register of Deeds for Cleveland County, NC, reference being made to the said deed and the record thereof for further identification and description of said property. Parcel ID: 21945

TRACT THREE: BEGINNING on an iron stake, a new corner, South 11-15 West 247.2 feet from Mrs. Miller Jones, corner in Beam's line and runs thence with the West line of Beam's property South 11-15 West 232.4 feet to an iron stake, a new corner in the old lineand in the North edge of the right of way of Oak Grove Church hard suraced road; thence with the North edge of right of way of said Oak Grove Church Road, North 51-05 West 135 feet to an iron stake, a new corher in the North edge of the right of way of said Oak Grove Church Road, thence a new line through Freemon L. Cash property North 18-00 East 163.5 feet to an iron stake, a new corner in Cash property; thence a new line through Cash property South 82-30 East 100 feet to the place of BEGINNING, containing 34,194 square feet according to a survey and map made by ames W. Elliott, surveyor on March 17, 1959.

This Ordinance shall become effective upon adoption and approval.

Adopted this 4th day of August, 2026.

ATTEST:

Kevin Gordon, Chairman Cleveland County Board of Commissioners	Phyllis Nowlen, Clerk Cleveland Count Board of Commissioners

ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF CLEVELAND COUNTY

General Business to Residential
2615 Oak Grove Rd.

Case 26-15

- **Parcels 21944, 21945, & 21929 – Owner(s): Mona S. Johnson – Deed Book 1896 Page 2115**

Exhibit "A"

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Planning Department Case 26-16; Request to Rezone Parcel 57492 from Heavy Industrial (HI) to Light Industrial (LI)

Department:

Agenda Title: Planning Department Case 26-16; Request to Rezone Parcel 57492 from Heavy Industrial (HI) to Light Industrial (LI)

Agenda Summary: Chris Martin, Planning Director

Proposed Action:

ATTACHMENTS:

File Name	Description
1._26-16_Staff_Report_PH.pdf	26-16 Staff Report
2._26-16_Petition.pdf	26-16 Petition
3._26-16_Map_Aerial.pdf	26-16 Aerial Map
4._26-16_Map_Zoning.pdf	26-16 Zoning Map
5._Case_26-16_Ordinance.pdf	26-16 Ordinance

STAFF REPORT

To: Board of Commissioners

Date: August 4th, 2026

From: Chris Martin, Planning Director

Subject: Case 26-16 Rezoning Heavy Industrial to Light Industrial

Location: 1036 Long Branch Road

Summary Statement: Wesley Lail, is requesting to rezone parcel 57492, owned by L&L Auto Sales Inc., containing 10 acres, from Heavy Industrial (HI) to Light Industrial (LI).

Review: The property lies on the west side of Long Branch Rd., approximately 2 miles north of Grover. The surrounding uses are auto parts sales across the road from the subject property with the remainder of uses mostly consisting of residential and rural agricultural uses.

The surrounding zoning districts are HI and R. The 2021 Land Use Plan designates this area as Secondary Growth, promoting new development at lower densities. Commercial uses and residential subdivisions should be strategically placed to help preserve the rural character.

Current Zoning District: HI—Heavy Industrial - Accommodates manufacturing, assembling, and fabrication of materials and products. The uses in this district are typically more intense and have a higher impact on surrounding properties.

Requested Zoning District: LI—Light Industrial – Accommodates Construction, retail trade, and other services with limited manufacturing uses.

Consistency Statement: *NCGS 160D-605 requires that local government boards adopt a consistency statement showing that the decision it makes fits in with the land use plan or if not, is reasonable and has a public interest.*

Planning Board: The planning board reviewed this request at their July 28th meeting and unanimously recommended approval stating that the request is reasonable and consistent with the land use plan.

Requested Board Action: Approve or deny the request.

Cleveland County
NORTH CAROLINA

PETITION FOR AMENDMENT OF THE ZONING MAP

NOW COMES Wesley M. Lail, Applicant, whose present mailing address is PO Box 339 Grover, NC 28073,
who respectfully petitions and shows as follows:

1. That the applicant is the ☑ **owner, ☐ legal representative, ☐ or other concerned parties**, of a certain tract or parcel of land located in Cleveland County, North Carolina, being more particularly described as:

Physical Address: 1036 Longbranch Rd Grover NC 28073

Parcel(s): 57492 containing 10 acres.

(if a portion of property attach survey)

2. That said property above described is presently zoned Heavy Industrial and the undersigned applicant desires and does hereby request that said property be rezoned to: Light Industrial.

3. The proposed zoning change would require a change in the Zoning Map? **YES** ✓ **NO** ____

If the answer is yes: An application for rezoning shall be accompanied by a survey, legal description, or map sufficient to provide public notice of the area requested for rezoning.

4. Owners of adjoining property hereby support this petition by signing below: Adjoining property shall be construed to mean and include property on the opposite side of any street, road, or highway from the property sought to be rezoned (attach an additional sheet if necessary).

PROPERTY OWNER (SIGNATURE)	PROPERTY OWNER (PRINT NAME	PROPERTY ADDRESS
	Richard Hopper	1032 Longbranch Rd
unable to contact	Albert Anderson	1037 Longbranch Rd
WL	Wesley Lail	1027, 1031, 1033, 1035 Longbranch

Respectfully submitted this 28 day of May, 2024.

SIGNED: WL

E-MAIL: landlautowes@gmail.com **PHONE NUMBER:** 704-937-7722
landlautosam@Gmail.com

For office use:

***Payment Code:* ZP 11 Map Amendment** ***Fee:* $300**

Paid on: 5-29-26 ZP: 187230 Case #: 26-16

Rezoning Case 26-16

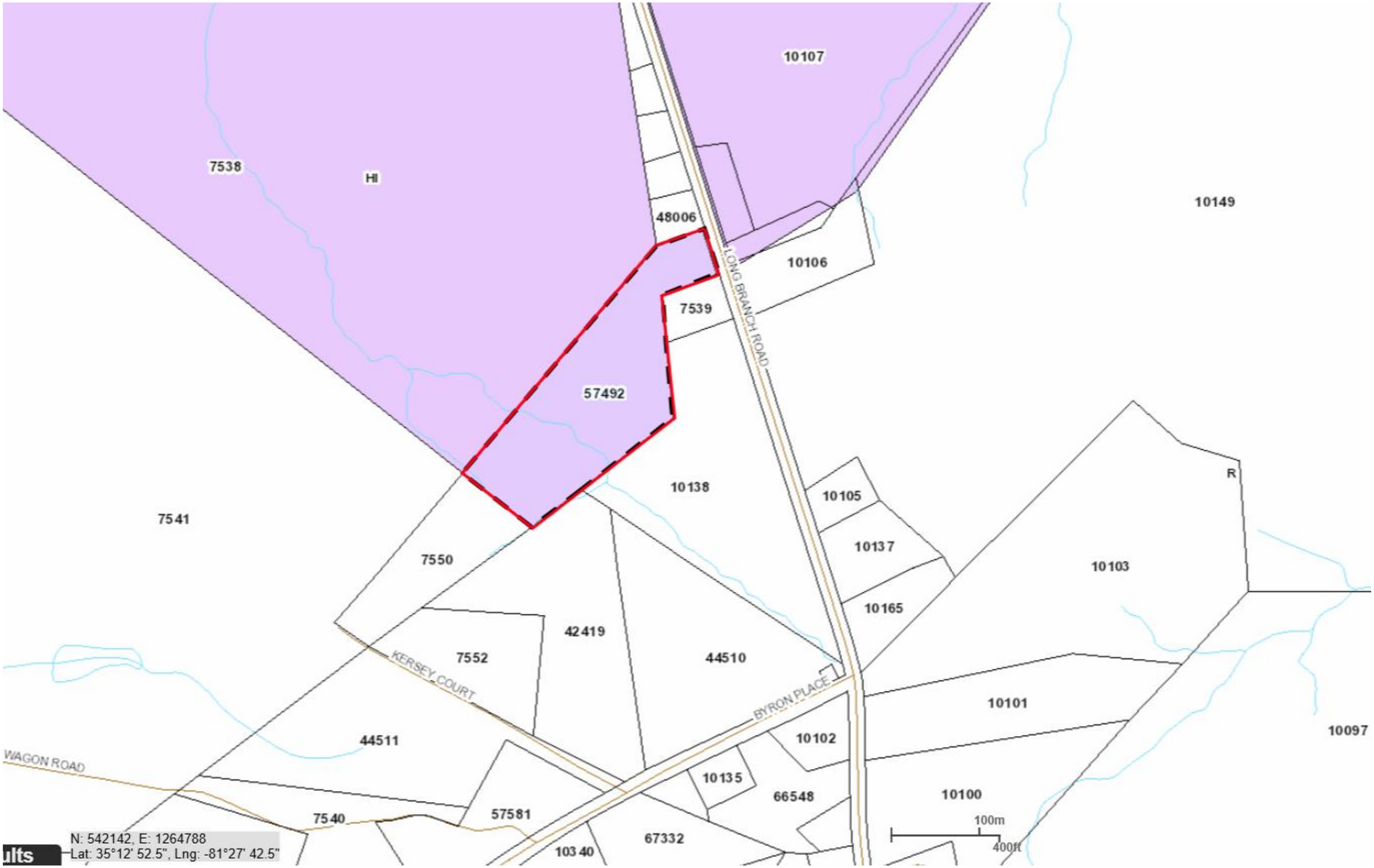
Parcel 57492

1036 Long Branch Rd.

Rezoning Case 26-16: Zoning Map

Parcel 57492

1036 Long Branch Rd.



ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF CLEVELAND COUNTY

Heavy Industrial to Light Industrial
1036 Long Branch Rd.

Case 26-16

- **Parcel 57492 – Owner(s): L&L Auto Sales Incorporated – Deed Book 1771 Page 1015**

WHEREAS, Article Two of Chapter 160D of the North Carolina General Statutes provides for the planning and regulation of development within the territorial jurisdiction of the county; and

WHEREAS, the Cleveland County Planning Board recommended to approve the zoning map amendment on May 26th 2026; and

WHEREAS, said rezoning will promote the health, safety, and welfare of the citizens of Cleveland County, the public interest would be furthered, and said amendment would be reasonable and beneficial to the orderly growth of Cleveland County; and

WHEREAS, notice of the Public Hearing was published in the Shelby Star on July 24th, 2026 and July 31st, 2026, and notices were mailed to adjoining property owners on July 14th, 2026 and a sign posted at the property on July 24th, 2026; and

WHEREAS, all requirements of the North Carolina General Statutes have been met prior to any action by the Cleveland County Board of Commissioners to amend the official zoning map following a public hearing on August 4th, 2026;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners that the Cleveland County Zoning Map, as described in Section 12-147 of the Cleveland County Unified Development Ordinance, be amended to change the classification of Parcel 57492 containing 10 acres as shown in Exhibit "A" and described more below, from Heavy Industrial to Light Industrial.

Property is located on the west side of Longbranch Road, bounded on the north by Richard Hopper and Bill Lail on the southwest by Morris Proffit, on the south by Richard Lovelace and on the east by Albert Anderson, and being described by metes and bounds as follows.

BEGINNING on a railroad spike set in the center of the right of way for Longbranch Road with said spike being the Southeast corner of Richard Hopper, running thence with the South line of Hopper, South 64-45-49 West 23.10 feet and South 70-9-57 West 185.02 feet to an axle in the East line of Bill Lail, thence in a new line through the property of Bill Lail, South 40-17-59 West 1139.06 feet to an iron, East corner Dan O'Shields, Northernmost corner of Morris Proffit, thence with the East line of Proffit, South 51-08-41 East 318.04 feet to a concrete monument in the North line of Richard Lovelace, thence with the North line of Lovelace and Anderson, North 55-24-36 East 685.76 feet to an axle, thence with the West line of Anderson, North 4-48-13 West 30303 feet to an iron, North 4-48-13 West 178 feet to a new iron at a Poplar tree, thence with the North line of Anderson, North 70-12-08 East 236.15 feet to a point in the center of the right of way of Longbranch Road (passing over an iron in the line at 214.02 feet) thence with the center of said right of way, North 18-7-32 West 20019 feet to the place of the BEGINNING, containing 10 acres, according to a survey by Lattimore and Peeler Surveying, dated August 16, 2003.

This Ordinance shall become effective upon adoption and approval.

Adopted this 4th day of August, 2026.

ATTEST:

Kevin Gordon, Chairman Cleveland County Board of Commissioners	Phyllis Nowlen, Clerk Cleveland Count Board of Commissioners

ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF CLEVELAND COUNTY

Heavy Industrial to Light Industrial
1036 Long Branch Rd.

Case 26-16

- **Parcel 57492 – Owner(s): L&L Auto Sales Incorporated – Deed Book 1771 Page 1015**

Exhibit "A"

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Planning Department Case 26-18; Request to Rezone Parcels 31548, 31976, and 63209 from Residential (R) to Light Industrial (LI)

Department:	
Agenda Title:	Planning Department Case 26-18; Request to Rezone Parcels 31548, 31976, and 63209 from Residential (R) to Light Industrial (LI)
Agenda Summary:	Chris Martin, Planning Director
Proposed Action:	

ATTACHMENTS:

File Name	Description
1._26-18_Staff_Report_PH.pdf	26-18 Staff Report
2._26-18_Petition___Survey.pdf	26-18 Petition and Survey
3._26-18_Map_Aerial.pdf	26-18 Aerial Map
4._26-18_Map_Zoning.pdf	26-18 Zoning Map

STAFF REPORT

To: Board of Commissioners

Date: August 4th, 2026

From: Chris Martin, Planning Director

Subject: Case 26-18 Rezoning Residential to Light Industrial

Location: 18 & 20 Glass way

Summary Statement: Brent Beason is requesting to rezone parcels 31976, 63209, and a portion of 31548 (containing a combined 16.816 acres) from Residential (R) to Light Industrial (LI). The petition includes a survey showing the boundary of the proposed area to rezone.

Review: The property lies between Redbird Ln and Glass Way, and is located between Lattimore and Mooresboro, along W. Dixon Blvd (Hwy 74). The surrounding uses consist of a fiber glass manufacturing facility on the adjacent parcel, agriculture uses and single family residential.

The surrounding zoning districts are LI and R. The 2021 Land Use Plan designates this area as Secondary Growth, promoting new development at lower densities and industrial near planned area. Commercial uses and residential subdivisions should be strategically placed to help preserve the rural character.

Current Zoning District: R—Residential - Single-family detached dwellings, modular homes, manufactured homes at a maximum density of two (2) dwelling units per acre. Multi-family housing (like duplexes and apartments) if certain standards are met.

Requested Zoning District: LI—Light Industrial – Accommodates Construction, retail trade, and other services with limited manufacturing uses.

Consistency Statement: *NCGS 160D-605 requires that local government boards adopt a consistency statement showing that the decision it makes fits in with the land use plan or if not, is reasonable and has a public interest.*

Planning Board: The planning board reviewed this request at their July 28th meeting and unanimously recommended approval stating that the request is reasonable and consistent with the land use plan.

Requested Board Action: Approve or deny the request.

PETITION FOR AMENDMENT OF THE ZONING MAP

NOW COMES M. Brent Beason / BPB Realty LLC / B&W Fiber Glass Inc, Applicant, whose present mailing address is 100 Glass Way Shelby, NC 28152,

who respectfully petitions and shows as follows:

1. That the applicant is the ☐ **owner,** ☐ **legal representative,** ☒ **or other concerned parties**, of a certain tract or parcel of land located in Cleveland County, North Carolina, being more particularly described as:

Physical Address: 18 & 20 Glass Way Shelby, NC 28152

Parcel(s): 31458, 31976 and 63209 containing 16.816 acres.

(if a portion of property attach survey)

2. That said property above described is presently zoned Residential
and the undersigned applicant desires and does hereby request that said property be rezoned to:
Light Industrial.

3. The proposed zoning change would require a change in the Zoning Map? **YES** ______ **NO** x

If the answer is yes: An application for rezoning shall be accompanied by a survey, legal description, or map sufficient to provide public notice of the area requested for rezoning.

4. Owners of adjoining property hereby support this petition by signing below: Adjoining property shall be construed to mean and include property on the opposite side of any street, road, or highway from the property sought to be rezoned (attach an additional sheet if necessary).

PROPERTY OWNER (SIGNATURE)	PROPERTY OWNER (PRINT NAME	PROPERTY ADDRESS
[signature]	BPB Realty LLC	100 Glass Way Shelby, NC
William Kohler Exec of the Estate of Judy Hunt	Judy Hunt Heirs	20 Glass Way Shelby, NC
Penny Gray, William James Corn	Penny Corn William James Corn	18 Glass Way Shelby, NC
[signature] Patty S Gold	Gary Gold - Patty Gold	306 Redbird Ln Shelby NC

Respectfully submitted this 28 day of May, 20 26.

SIGNED: [signature]

E-MAIL: brentb@bwfiberglass.com **PHONE NUMBER:** 704 860 1393

For office use:

Payment Code: ZP 11 Map Amendment ***Fee:* $300**

Paid on: 6-18-26 ZP: 187426 Case #: 26-18

STATE OF NORTH CAROLINA
COUNTY OF CLEVELAND

________________, REVIEW OFFICER OF CLEVELAND COUNTY CERTIFY THAT THIS MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE   REVIEW OFFICER

CERTIFICATE OF APPROVAL

I HEREBY CERTIFY THAT THE MINOR SUBDIVISION SHOWN ON THIS PLAT IS IN ALL RESPECTS IN COMPLIANCE WITH THE CLEVELAND COUNTY CODE, AND THAT THIS PLAT HAS BEEN APPROVED BY THE ADMINISTRATOR, SUBJECT TO BEING RECORDED WITH THE CLEVELAND COUNTY REGISTER OF DEEDS

ADMINISTRATOR   DATE

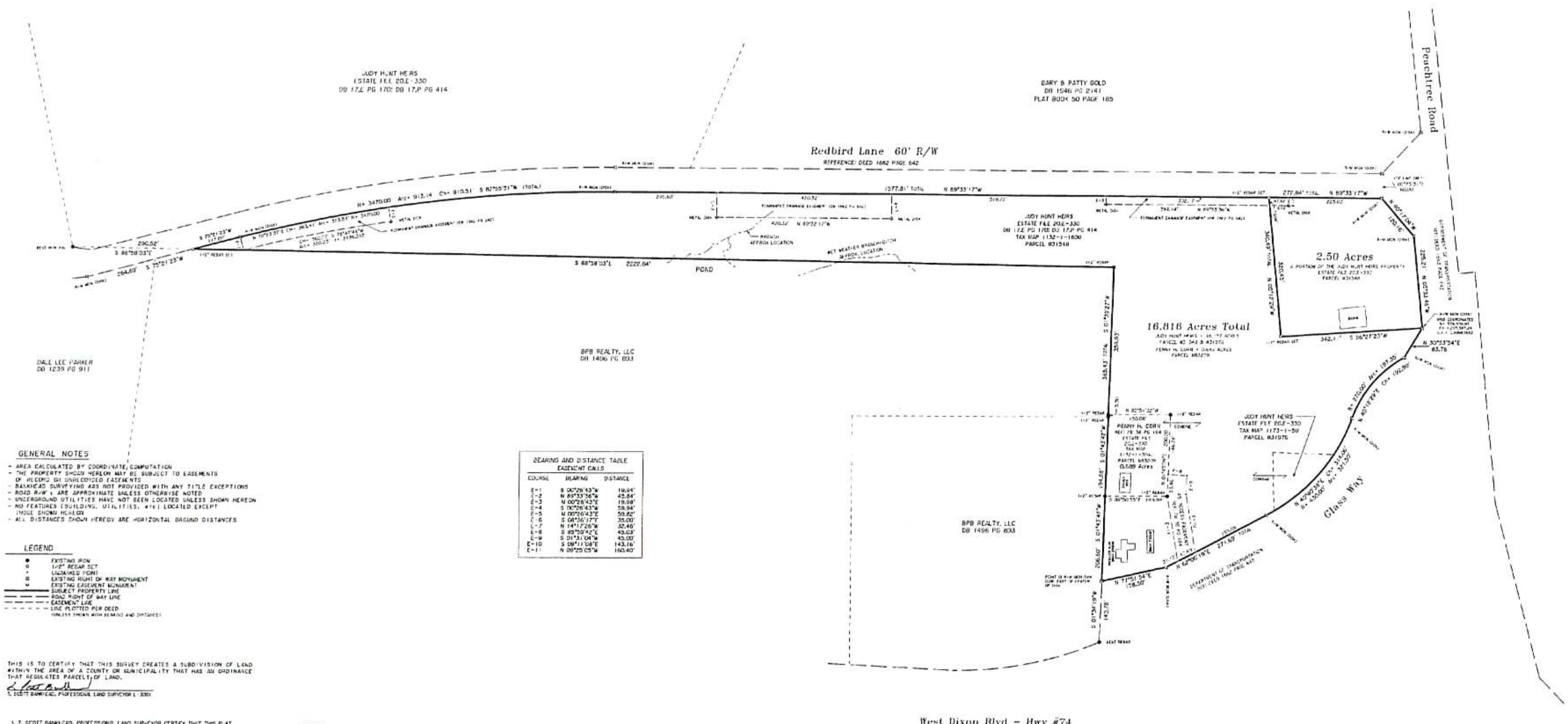
GRID NORTH NAD 83-2011

OWNER(s)
JUDY HUNT HEIRS
ESTATE FILE 20,E - 330
DEED REFERENCE: DEED 17,E PAGE 170; DEED 17,P PAGE 414
AND
PENNY H. CORN
ESTATE FILE 20,E - 330
DEED REFERENCE: DEED 17,E PAGE 170; DEED 17,P PAGE 414
PLAT REFERENCE: PLAT BOOK 30 PAGE 104

BOUNDARY SURVEY FOR
BPB Realty, LLC

CLEVELAND COUNTY, NORTH CAROLINA
TAX MAP REF: 1132-1-160U & 304L
1173-1-5U
PARCEL NUMBER: 31548; 31976; 63209
SCALE 1" = 125' DATE 05/18/26

125 0 125 250 375
GRAPHIC SCALE - FEET



GENERAL NOTES

- AREA CALCULATED BY COORDINATE COMPUTATION
- THE PROPERTY SHOWN HEREON MAY BE SUBJECT TO EASEMENTS OF RECORD OR UNRECORDED EASEMENTS
- BANKHEAD SURVEYING WAS NOT PROVIDED WITH ANY TITLE EXCEPTIONS
- ROAD R/W's ARE APPROXIMATE UNLESS OTHERWISE NOTED
- UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED UNLESS SHOWN HEREON
- NO FEATURES (BUILDING, UTILITIES, etc) LOCATED EXCEPT THOSE SHOWN HEREON
- ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND DISTANCES

LEGEND

- EXISTING IRON
- 1/2" REBAR SET
- UNMARKED POINT
- EXISTING RIGHT OF WAY MONUMENT
- EXISTING EASEMENT MONUMENT
- SUBJECT PROPERTY LINE
- ROAD RIGHT OF WAY LINE
- EASEMENT LINE
- LINE PLOTTED PER DEED (UNLESS SHOWN WITH BEARING AND DISTANCE)

BEARING AND DISTANCE TABLE
EASEMENT CALLS

COURSE	BEARING	DISTANCE
E-1	S 00°26'43"W	19.94'
E-2	N 89°33'36"W	45.84'
E-3	N 00°26'43"E	19.98'
E-4	S 00°26'43"W	59.94'
E-5	N 00°26'43"E	59.82'
E-6	S 08°36'17"E	35.00'
E-7	N 14°17'26"W	32.46'
E-8	S 85°59'42"E	45.63'
E-9	S 01°31'04"W	45.00'
E-10	S 09°17'08"E	143.16'
E-11	N 09°25'05"W	160.40'

THIS IS TO CERTIFY THAT THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

T. Scott Bankhead
T. SCOTT BANKHEAD, PROFESSIONAL LAND SURVEYOR L-3001

I, T. SCOTT BANKHEAD, PROFESSIONAL LAND SURVEYOR CERTIFY THAT THIS PLAT WAS DRAWN FROM AN ACTUAL FIELD SURVEY PERFORMED UNDER MY DIRECTION AND SUPERVISION (DEED REFERENCE: DEED 17,E PAGE 170); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED BY DASHED LINES DRAWN FROM THE THE DEED INFORMATION SHOWN HEREON; THAT THE RATIO OF PRECISION IS 1:10,000; AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH GS 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS

18th Day of May 2026

T. Scott Bankhead
Professional Land Surveyor - License No. L-3001

NORTH CAROLINA PROFESSIONAL SEAL L-3001 LAND SURVEYOR T. SCOTT BANKHEAD

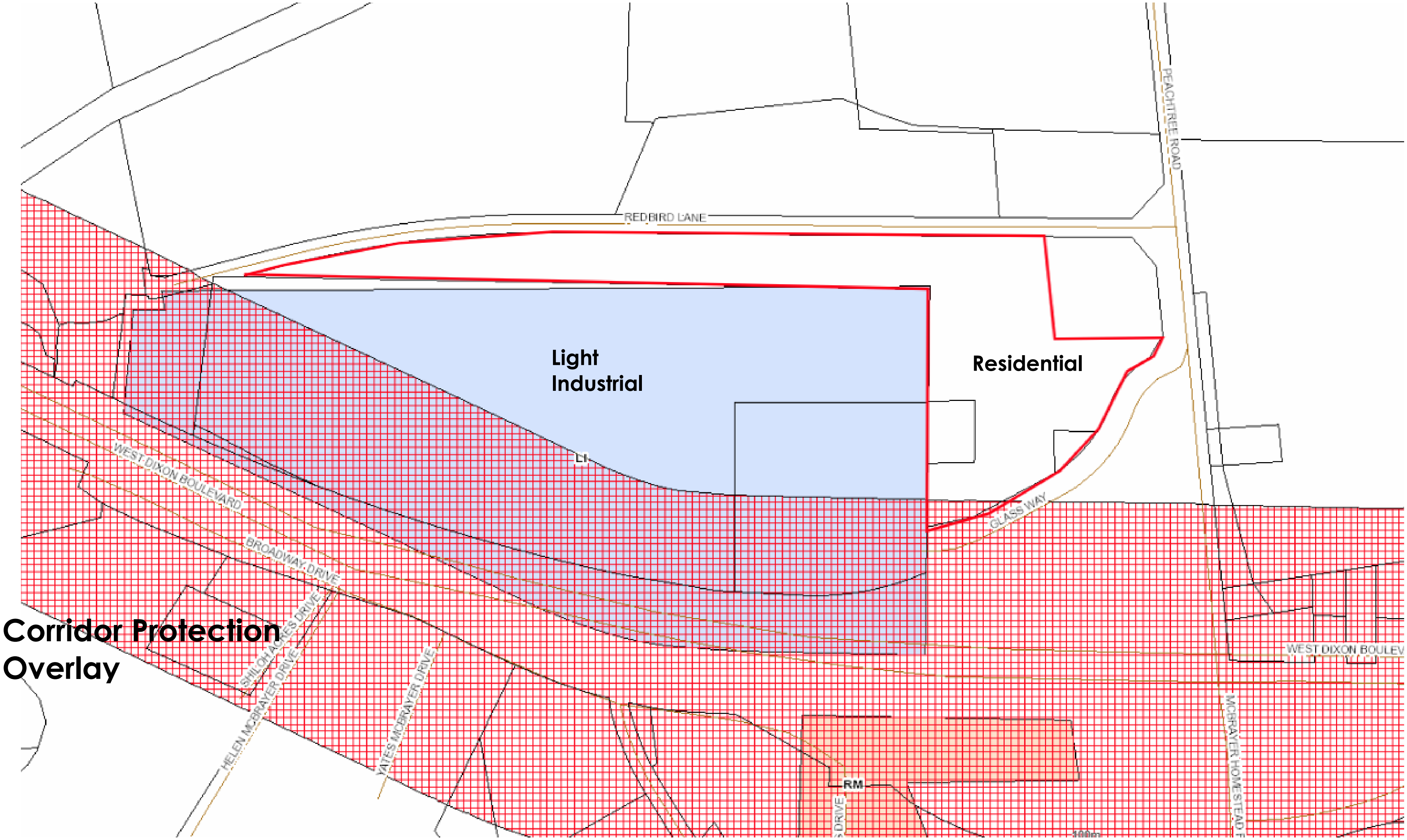
SURVEY BY
BANKHEAD SURVEYING, PA
407 EAST MARION STREET
SHELBY, N.C. 28150
(704) 481-1040
FIRM LICENSE NUMBER- C-0972

Rezoning Case 26-18

Parcels 31548, 31976, & 63209: 16.816 acres as shown in red

18 & 20 Glass Way

Rezoning Case 26-18 Zoning Map
Parcels 31548, 31976, & 63209
18 & 20 Glass Way



COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Justice Center Project Update

Department:	
Agenda Title:	Justice Center Project Update
Agenda Summary:	David Cotton, County Manager
Proposed Action:	

ATTACHMENTS:

File Name	Description
No Attachments Available	

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

The next regular meeting of the Cleveland County Board of Commissioners will be held on Tuesday, September 15, 2026, at 6:00 pm in the Commissioners' Chambers.

Department:

Agenda Title: The next regular meeting of the Cleveland County Board of Commissioners will be held on Tuesday, September 15, 2026, at 6:00 pm in the Commissioners' Chambers.

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description

No Attachments Available